

ADMINISTRATIVE PANEL DECISION

Take-Two Interactive Software, Inc. v. Trump Token Case No. DCC2024-0022

1. The Parties

The Complainant is Take-Two Interactive Software, Inc., United States of America (“United States”), represented by Frankfurt Kurnit Klein & Selz, PC, United States.

The Respondent is Trump Token, Ireland.

2. The Domain Name and Registrar

The disputed domain name <gtatoken.cc> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 15, 2024. On August 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 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 August 28, 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 August 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 20, 2024.

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on September 26, 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 in this administrative proceeding is Take-Two Interactive Software, Inc. (“T2” or “Complainant”), a corporation organized under the laws of Delaware.

The Complainant is a leading video game developer and publisher. Through its subsidiary, Rockstar Games, Inc., the Complainant develops and publishes the world-famous and critically acclaimed Grand Theft Auto video game franchise (the “GTA Game Series”).

The GTA Game Series is one of the best-selling entertainment products in the world, collectively selling over 400 million copies worldwide.

The latest installment in the GTA Game Series, Grand Theft Auto V, grossed more than USD 1 billion in retail sales in the first three days after its release and has sold over 200 million units to date.

The Complainant offers the GTA Game Series under the mark GRAND THEFT AUTO and the mark GTA (the “GTA Trademark”).

The Complainant uses the GTA trademarks in connection with the GTA Game Series. The GTA Game Series has several distinct and recognizable trade dress or thematic elements including, but not limited to, an urban setting, the GTA Game Series Font, spray paint and graffiti, bright colors against a black background, and depictions of cars and firearms (the “GTA Game Elements”).

The GTA Game Series Font is unique in the game industry and is highly associated with the GTA Game Series and the Complainant.

In addition to the GTA Game Series, the Complainant has expanded its use of the GTA Marks and GRAND THEFT AUTO mark to other goods and services such as online membership clubs, game-related content (ex., videos and stories) that consumers encounter outside of the game, physical merchandise such as t-shirts and stickers, and digital merchandise such as and in-game goods including, but not limited to, virtual in-game currency, virtual vehicles and vehicle liveries, virtual clothing and fashion accessories, and virtual real estate properties.

The Complainant has used its GTA Trademark in a highly prominent, widespread, and continuous manner since 1999, for almost twenty-five years.

The Complainant registered the trademark GTA Trademark or the GTA trademark followed by a word or symbol the “GTA Marks” in the United States, described as follows:

Trademark	Registration Date	Registration number	Nice class
GTA	June 3, 2008	3439237	Class 9 and Class 41
GTA (stylized letters)	November 1, 2022	6886747	Class 9

The disputed domain <gtatoken.cc> was registered on January 16, 2024

The disputed domain name displays an active website that contains the full and exact GTA Trademark. Additionally, the website under the disputed domain name features numerous GTA game elements, such as the obvious usage of the GTA Game Series Font, graffiti and spray paint, vibrant colors against a black background, pistols, and tire tracks. The GTA game series is also referred to on the website as the “Greatest Game Series in History”. Furthermore, content related to the sale of virtual currency is displayed on the website at the disputed domain name (the “Website”).

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 the disputed domain name is confusingly similar to the GTA trademark, notwithstanding the inclusion of the additional term "token". It is claimed that this addition is a descriptive word that is not sufficient to render the disputed domain name distinct from the GTA trademark.

The Complainant asserts that the Respondent has no rights or legitimate interests regarding the disputed domain name. According to the Complainant, the Respondent has made no legitimate or fair use of the disputed domain name. The Complaint alleges that the disputed domain name was registered and used in bad faith.

The Complainant requests that the disputed domain name be transferred to it.

B. Respondent

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

6. Discussion and Findings

In order to succeed in its Complaint, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied: (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 with respect to the disputed domain name; and (iii) 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.

The Panel finds that the Complainant has trademark rights in the GTA trademark which are sufficient for the purposes of the Policy. The Panel is satisfied that the Domain Name is confusingly similar to the Complainant's GTA trademark.

Furthermore, the Panel finds that the disputed domain name reproduces the entirety of the trademark, in addition to the term "token", which does not prevent a finding of confusing similarity under the first element. In light of the above, the Panel finds that the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and 1.8.

In addition, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark since it is acknowledged that the generic Top-level Domain ("gTLD") in the present case ".cc", may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark, as it is a technical requirement of registration. [WIPO Overview 3.0](#), section 1.11.1

The Panel finds that 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 falls on the Complainant, panels have acknowledged 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. In such cases, where a Complainant presents 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 event that 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.

Upon review the available record, the Panel finds that 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 case and has not provided any relevant evidence demonstrating that it has rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

According to the Complainant, the Respondent is not affiliated in any way with the Complainant or otherwise authorized or licensed to use the Complainant’s trademark, nor to seek registration of any domain name containing the Complainant’s trademark, and the Respondent is not commonly known by the Disputed Domain name or the GTA Trademarks, and in any circumstance has acquired any legitimate trademark or service mark rights in the Disputed Domain.

In the present case, the disputed domain name resolves to an active website that displays content in a manner that is misleading consumers regarding the Complainant’s approval, sponsorship, or endorsement of the Website. The Respondent’s use of the disputed domain name infringes, dilutes, and tarnishes the GTA Marks. The Respondent uses the Disputed Domain to promote and sell a digital token, also known as a virtual currency. Also, the Respondent has used the Disputed Domain to actively confuse and funnel users and potential users utilizing the Complainant’s services and products to the Website and to facilitate the Respondent’s own gain at the Complainant’s expense. Also, the Respondent intentionally uses the Disputed domain name for its own profit and in a commercial manner to promote and sell the Respondent’s own virtual currency. According to the evidence presented by the Complainant the Respondent has not made any demonstrable preparations to use the Disputed domain name in connection with a bona fide, non-infringing offering of any good or service.

Taking all the above mentioned into account, the Panel recognized that the that the Respondent was aware of the Complainant’s trademark and the Complainant’s domain name when it registered the disputed domain name, that the Respondent intends to trade off the Complainant’s trademark, and the goodwill and reputation enjoyed therein; to compete with and capitalize on the popularity and the worldwide prestige that comes with the Complainant’s trademark; to directly mislead and confuse Internet users, and this cannot support the Respondent’s rights or legitimate interests. The Respondent’s conduct could not be considered as a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to divert consumers misleadingly or to tarnish the trademark at issue: as alleged by the Complainant in its submissions, the Respondent, by acting in the way described above, uses the disputed domain name strictly for commercial gain.

Based on the preceding, the Panel finds that the Respondent’s use of the disputed domain name does not constitute a bona fide use or a legitimate noncommercial or fair operation of the disputed domain name and that the Respondent has no rights or legitimate interests in the disputed domain name.

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.

According to section 3.1.1 of the [WIPO Overview 3.0](#), outlines circumstances that may indicate that the Respondent's intent in registering the disputed domain name was in fact to profit in some way from or otherwise exploit the Complainant's trademark these include, alone or together: (i) the Respondent's likely knowledge of the Complainant's rights; (ii) the distinctiveness of the Complainant's mark; and (iii) website content targeting the Complainant's trademark (e.g., through links to the Complainant's competitors). Under section 3.1.4 of the [WIPO Overview 3.0](#), panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

The Panel finds that the disputed domain name is similar to the Complainant's trademark, registered before the disputed domain name. The Panel considers that it is inconceivable that the Respondent was unaware of the existence of the Complainant, and its trademarks, when it registered the disputed domain name given the reputation of the Complainant's trademark and the content of the Website.

In the present case, the Panel notes that the Respondent acquired the disputed domain name in bad faith and that the Respondent was well aware of the Complainant and its GTA Marks when it registered or acquired the disputed domain name. The disputed domain name contains the Complainant's entire GTA Marks, combined with a descriptive word "token". According to the Complaint and the evidence presented in the case, the Website displayed the trademarks, emulates the look, style, and specific design elements of the Complainant's official website, and uses many of the GTA Game Elements.

Accordingly, the Panel finds that by choosing to register and use the disputed domain name, which is confusingly similar with the Complainant's trademark, the Respondent intended to benefit off the goodwill of the trademark in a direct attempt, by exploiting, for commercial gain, Internet users searching for the Complainant's official websites. The Panel also finds that the conduct of the Respondent (as far as the choice of the disputed domain name and the website to which the disputed domain name resolves) indicates registration and use of the disputed domain name in bad faith.

The Website is an entirely for-profit enterprise promoting and selling goods (virtual currency), prominently displaying and taking unfair advantage of the Complainant's GTA Marks.

Upon information and belief, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its Website by creating a likelihood of confusion with the Complainant's GTA Marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website and the product or service on the Respondent's Website. It is also notably important to establish that the Respondent's website shows pictures or a panorama very distinctive of the GTA Marks.

The Respondent has used and registered the disputed domain name in bad faith.

In light of the preceding, the Panel concludes that the disputed domain name was registered and is being used in bad faith; therefore, to find that the Complaint fulfills the paragraph 4(a)(iii) of 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 <gtatoken.cc> be transferred to the Complainant.

/Ada L. Redondo Aguilera/

Ada L. Redondo Aguilera

Sole Panelist

Date: October 10, 2024