

ADMINISTRATIVE PANEL DECISION

Entropica Labs Pte Ltd. v. Joaquin Keller
Case No. DIO2024-0006

1. The Parties

The Complainant is Entropica Labs Pte Ltd., Singapore, represented by Ravindran Associates LLP, Singapore.

The Respondent is Joaquin Keller, France.

2. The Domain Name and Registrar

The disputed domain name <entropicalabs.io> (the “Domain Name”) is registered with OVH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 4, 2024. On March 6, 2024, the Center requested verification from the Registrar in connection with the Domain Name. The Registrar emailed the Center its verification response confirming that the Respondent is listed as the registrant and providing the Respondent’s contact details on the same day.

The Center verified that the Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 March 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent of his default on April 3, 2024.

The Center appointed David H. Bernstein as the sole panelist in this matter on April 5, 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.

In light of the absence of a reply from the Respondent, the Panel has carefully reviewed the record to ensure that the Center fulfilled its responsibility to employ reasonably available means calculated to achieve actual notice to the Respondent, as mandated by paragraphs 2(a) and 4(g) of the Rules. See *Nicole Kidman v.*

John Zuccarini, d/b/a Cupcake Party, WIPO Case No. [D2000-1415](#). On March 13, 2024, the Center sent three emails to an email address associated with the Respondent, notifying him of the Complaint and transmitting the Complaint and its Annexes. The Center's email delivery subsystem confirmed that delivery to Respondent was completed, though Respondent's destination server did not send a delivery notification. On March 13, 2024, the Center also sent a notice of the Complaint via mail courier to two addresses associated with the Respondent, one in France, and one in Singapore. Courier tracking indicates that the notice sent to France was delivered and signed for on March 14, 2024. Delivery to the Singapore address was unsuccessful due to a lack of response at the Respondent's address. It appears that the Respondent received actual notice of these proceedings, at least through the courier package that was delivered to him in France. Regardless, the Panel is satisfied that the Center has employed "reasonably available means" in attempting to provide actual notice to the Respondent and has thus fulfilled its obligation pursuant to paragraphs 2(a) and 4(g) of the Rules.

4. Factual Background

The Complainant is a Singaporean software company which specializes in software tools for large-scale quantum algorithms. The Complainant has used the ENTROPICA LABS mark in connection with its business and services since 2018.

The Respondent is a former contractor and employee of the Complainant. At the time of the Domain Name's registration, the Respondent was employed by a company engaged in an Independent Contractor Agreement (the "IC Agreement") with the Complainant. The IC Agreement, which was signed by the Respondent on behalf of the contracting company, specified the Complainant's engagement of the company was effective from April 1, 2019 to June 30, 2019.

Section 4 of the IC Agreement covered Intellectual Property. "Company IP," referring to the Complainant's intellectual property, is defined in Section 4.1 of the IC Agreement as "[a]ll Intellectual Property Rights in ... Confidential Information; the Deliverables; and Intellectual Property created, produced, or worked on by the Contractor or its personnel during the terms of the agreement ... in the provision of Services and Deliverables; at the [Complainant's] premises; and/or using any resource, equipment, or information (including Confidential Information) of the [Complainant] or ... that is relevant to the business or operation of the Company, unless the Company has agreed otherwise in writing."

Sections 4.1(a)(iii) and (b) of the IC Agreement stipulated that "[a]ll Intellectual Property Rights in ... any Intellectual Property created, produced, or worked on by the Contractor or its personnel during the term of the agreement" are owned by Complainant from the date the items are created, produced, or worked on. Section 4.3 of the IC Agreement (the "Assignment Clause") indicated that the contracting company was to assign to Complainant "all of the Contractor's rights, title and interest in and to the Company IP."

The Respondent also personally signed a Deed of Undertaking, which was included in the Schedule of the IC Agreement and dated April 1, 2019. Section 4 of the Deed of Undertaking likewise established that the Respondent was to assign to Complainant any rights, title, and interest in and to the Company IP.

The Domain Name was registered by the Respondent on May 23, 2019. After the expiry of the IC Agreement on June 30, 2019, and after registration of the Domain Name, the Respondent was employed by the Complainant as Chief Computing Officer on February 3, 2020. The Respondent's employment terms were memorialized through an Employment Agreement with the Complainant.

The Respondent resigned from his position as Chief Computing Officer on August 7, 2020. On August 19, 2020, the Respondent signed a release letter with the Complainant (the "Release Letter") setting out the terms and conditions of the Respondent's resignation. The Release Letter stated that the Respondent's last day of employment would be November 30, 2020.

Section 3(c) of the Release Letter provided that, as of September 1, 2020, all rights, title, and interests, including all intellectual property rights, created by the Respondent in or outside the course of his employment, or relating to the business, finance or affairs of the Complainant, or as a result of any work, services, or duties performed by the Respondent for the Complainant, would “vest and remain at all times” in the Complainant. The Release Letter further required that the Respondent assign any such rights to the Complainant.

The Respondent’s employment relationship with the Complainant terminated on November 30, 2020, as contemplated by the Release Letter.

The Respondent uses the Domain Name for a website containing information related to the Complainant’s business and services as of the time of the Respondent’s tenure at the company, circa 2020, including outdated team information that, inter alia, lists the Respondent as an employee. The Respondent’s website also indicates that he was a “Founder” of the Complainant, though there is no evidence in the record that establishes that the Respondent was a Founder of the Complainant. At most, the record reflects that the Respondent was an independent contractor to the Complainant for several months in 2019 (after the founding of the Complainant in 2018) and was the Chief Computing Officer for several months in 2020.

Notwithstanding the terms of the IC Agreement, the Deed of Undertaking, the Employment Agreement and the Release Letter, the Respondent retains the Domain Name and has refused to transfer the Domain Name to the Complainant. Specifically, on November 7, 2022, the Complainant emailed the Respondent, requesting that the content displayed in the Domain Name website be removed, or alternatively, that control of the Domain Name be transferred to the Complainant. The Complainant followed up with the Respondent again on August 31, 2023, after receiving no reply from the Respondent in response to the first message. The Complainant wrote that it had been receiving questions from individuals who were confused about who controlled the Domain Name, and again requested removal of the outdated content. After receiving no reply from the Respondent, the Complainant sent a formal demand letter to the Respondent requesting transfer of the Domain Name and offering to compensate the Respondent EUR 500 in return on November 20, 2023. On the same day, the Respondent replied, requesting USD 80,000 in exchange for the Domain Name.

5. Parties’ Contentions

A. Complainant

The Complainant asserts common law trademark rights to the mark ENTROPICA LABS, the business and trading name of the Complainant that it has used since 2018. The Complainant is the owner of the domain name <entropicalabs.com>, which the Complainant uses as its primary website, and utilizes the ENTROPICA LABS mark on a variety of social media pages, including Instagram, LinkedIn, X, Medium, and GitHub. The Complainant contends that its use of the mark is continuous and extensive, and refers to a sample of invoices and purchase orders displaying the mark between 2020 and 2022. The Complainant also points to the mention of the mark in various news articles and industry and startup lists as evidence that the mark has become a distinctive identifier of the Complainant’s goods and services to consumers.

The Complainant further contends that the Respondent, who registered the Domain Name while engaged as an independent contractor by the Complainant, has no rights or legitimate interests in the Domain Name. Even if the Respondent at one point had a legitimate claim or interest, the Complainant argues that any claim or interest would have ceased to exist once the Respondent resigned from his role at the Complainant’s company and signed the Release Letter assigning to the Complainant any intellectual property rights created by the Respondent in connection with his work for the Complainant.

Lastly, the Complainant argues that the Respondent is using the Domain Name in bad faith for two reasons: (1) the Respondent has improperly retained control of the Domain Name, which was registered for the Complainant’s benefit and in breach of the relevant clauses in the employment agreements entered into by the Respondent; and (2) the Respondent requested USD 80,000 from the Complainant in exchange for the

Domain Name transfer, a price the Complainant avers is grossly disproportionate to the out-of-pocket costs the Respondent incurred in registering the Domain Name.

B. Respondent

The Respondent did not reply to the Complainant's contentions. The Panel will thus base its decision on the statements and documents submitted, in accordance with the Policy and paragraph 15(a) of the Rules.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant must prove the following three elements by a preponderance of the evidence: (i) that the 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 in respect of the domain name; and (iii) the domain name has been registered or is being used in bad faith. The burden remains on the complainant to prove all three of these elements even though the respondent has defaulted.

A. Identical or Confusingly Similar

The Complainant asserts unregistered trademark rights in the mark ENTROPICA LABS. In order to establish unregistered or common law trademark rights, the Complainant must show that its mark has become a distinctive identifier that consumers associate with the Complainant's goods and/or services. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions 3.0 ("[WIPO Overview 3.0](#)"), section 1.3¹.

The Complainant refers to various invoices, articles, social media pages, and business profiles that support the Complainant's contention that it has consistently and continuously used the mark to advertise its goods and services to the consumer public. The Panel finds that the Complainant has provided sufficient evidence that, through its use of the mark in connection with its business, the Complainant has acquired common law trademark rights in the ENTROPICA LABS mark for purposes of the Policy.

The Domain Name is identical to the Complainant's mark, save the absence of a space between the words "Entropica" and "Labs." For purposes of comparing a Domain Name and the Complainant's mark, "the omission of the single space" between two words in a disputed domain name "does not distinguish the mark in any way and may be ignored." *Stuart Weitzman IP, LLC v. Zhao Ke*, WIPO Case No. [DTV2014-0004](#); see also [WIPO Overview 3.0](#), section 1.7 ("in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing").

Thus, the Panel finds that the Domain Name is identical or confusingly similar to the Complainant's trademark pursuant to paragraph 4(a)(i) of the Policy, and that the Complainant has established the first element of the Policy.

B. Rights or Legitimate Interests

It is not clear from the record whether the Respondent's initial action in registering the Domain Name in his own name, rather than in the Complainant's name, was done in violation of the Complainant's instructions. But what is clear from the Respondent's contractual relationships with the Complainant is that all intellectual property developed as part of the Respondent's work with and for the Complainant, which includes the

¹ Given the similarities between the .IO Policy and Rules and the Uniform Domain Name Dispute Resolution Policy ("UDRP") and Rules, the Panel finds UDRP precedent generally to be relevant to this case (except to the extent of relevant differences between the policies, such as the absence of a conjunctive requirement for bad faith). See *IOTA Foundation v. Privacy Service provided by Withheld for Privacy ehf /Super Green*, WIPO Case No. [DIO2022-0001](#).

Domain Name, are the property of the Complainant. It also is clear that the Respondent was required to transfer the Domain Name to the Complainant upon the termination of his employment. As such, as of the time of the filing of the Complaint, the Respondent lacked any rights or legitimate interests in the Domain Name. [WIPO Overview 3.0](#), section 2.11.

The Panel concludes that the Complainant has established that the Respondent has no rights or legitimate interest in the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered or Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, it is sufficient for the Complainant to show that the Respondent either registered the Domain Name or is using the Domain Name in bad faith.

As noted above, the exact circumstances around the Respondent's initial registration of the Domain Name are somewhat unclear. The Panel need not address whether that registration was in bad faith, though, because there is clear bad faith use here. The Respondent's refusal to abide by his contractual obligations to transfer the Domain Name to the Complainant, his publication of inaccurate information on the website to which the Domain Name resolves, and his demand for a USD 80,000 payment in return for relinquishment of the Domain Name, all constitute bad faith use in respect of the Domain Name.

Accordingly, the Panel finds that the Complainant has satisfied its burden of showing that the Respondent used the Domain Name in bad faith under paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, and in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name, <entropicalabs.io>, be transferred to the Complainant.

/David H. Bernstein/
David H. Bernstein
Sole Panelist
Date: April 19, 2024