

ADMINISTRATIVE PANEL DECISION

H2O.AI, Inc. v. sfdsfdsd, Sdgasd Redsad
Case No. DIO2024-0018

1. The Parties

Complainant is H2O.AI, Inc., United States of America (“United States”), represented Barnes & Thornburg, United States.

Respondents are sfdsfdsd, United States and Sdgasd Redsad, United States.

2. The Domain Names and Registrar

The disputed domain names <h2oai.io> and <h2oi.io> are registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 24, 2024. On June 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 26, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint.

The Center sent an email communication to Complainant on July 9, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. Complainant filed an amended Complaint on July 13, 2024.

The Center verified that the Complaint together with the amended 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 Respondent of the Complaint, and the proceedings commenced on July 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 20, 2024.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on August 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

Complainant, H2O.AI, Inc., is a company in the field of automated machine learning, time series forecasting and responsible AI usage. Complainant provides AI services to numerous organizations around the world such as through an AI cloud platform that allows organizations to manage, deploy, govern, and monitor machine learning models in production. Complainant uses the name and mark H2O.AI in connection with its goods and services and owns two registrations in the United States for marks that consist of H2O, namely, H2O WAVE (Registration No. 6918142) that issued to registration on December 6, 2022, and H2O WORLD (Registration No. 5825707) that issued to registration on August 6, 2019. Complainant also owns (i) a pending application in the United States for H2O.AI (Application No. 98606278) that was filed on June 18, 2024, claiming a first use in commerce date of March 15, 2015, and (ii) a pending application for H2O DRIVERLESS AI (Application No. 97145849) that was filed on November 29, 2021, and is currently facing a non-final office action. Lastly, Complainant owns and has used the domain name <h2o.ai> since 2015 for customers to access Complainant's services and to provide information about Complainant and its services.

Respondents appear to be based in the United States in the State of Alabama. The <h20ai.io> disputed domain name was registered on April 25, 2024, and the <h20aai.io> disputed domain name was registered on May 4, 2024, through the same Registrar. At some point after the disputed domain names were registered, they each were used for a login page featuring Complainant's logo for its H2O.AI mark. The disputed domain names appear to have been used as part of a work from home scheme impersonating Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, Complainant contends that the disputed domain names either incorporate Complainant's exact H2O.AI mark, or a typo version of such mark, and are being used in bad faith to impersonate Complainant as part of a likely fraudulent scheme to trick unsuspecting victims targeted by Respondent into making payments to Respondent.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Preliminary Issue Regarding the Request for Consolidation of Respondents

Complainant has submitted a request for consolidation of Respondents in this proceeding. In determining whether a single consolidated complaint can be brought against multiple respondents, panels typically look at whether (i) the disputed domain names or the corresponding websites are subject to common control, and

(ii) the consolidation would be fair and equitable to all parties. See section 4.11.2, Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#))¹.

Based on the evidence submitted, which is not contested by Respondents, the Panel accepts Complainant's contention that the disputed domain names are subject to common control. The websites were registered within two weeks of each through the same Registrar using addresses in Alabama that do not appear legitimate. Moreover, the disputed domain names have both resolved to the identical login page that features Complainant's H2O.AI logo and have been used as part of the same work from home scheme impersonating Complainant.

Under the circumstances, the Panel finds that consolidation would be fair and equitable to all parties. (Respondents in this proceeding will hereinafter be referred to collectively as “Respondent” in the singular form.)

7. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names were registered or are 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 Complainant's trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds that Complainant has shown rights in H2O through the use and registration of the H2O WAVE and H2O WORLD marks. With regard to Complainant's pending application for the H2O.AI mark, the Panel notes that the application for the mark was filed after the disputed domain names were registered and is currently pending. However, Complainant has presented adequate evidence that it was using the H2O.AI mark as an unregistered trademark for its goods and services, for example, through the use of H2O.AI on Complainant's website at <h2o.ai>, well before Respondent registered the disputed domain names. Consequently, Complainant has established that it has rights in H2O and H2O.AI for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel further finds that the dominant part of the H2O WAVE and H2O WORLD marks, being H2O, and the entirety of the H2O.AI marks are clearly reproduced and visible within the disputed domain names in either their exact form, or in a typo version such as “h2aai.” Accordingly, the disputed domain names are identical and confusingly similar to Complainant's H2O.AI and H2O-related marks for purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

¹ Given the similarities between the Policy and the Uniform Domain Name Resolution Policy (“UDRP”), the Panel finds it appropriate to refer to UDRP jurisprudence, including reference to the [WIPO Overview 3.0](#).

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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.

Having reviewed the available record, the Panel finds that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent, who has failed to appear in this proceeding, has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Here, Respondent has only used the disputed domain names as part of what amounts to a fraudulent scheme. Respondent has used the disputed domain names that copy Complainant’s H2O.AI and the dominant portion of H2O-related marks for websites for login pages that impersonate Complainant. Such use has been done illegitimately for what appears to be a fraudulent work at home scheme in which unsuspecting job applicants or other victims are tricked into making payments. As Panels have consistently held, the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered or 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 or use of a domain name in bad faith.

In the present case, the Panel notes that Respondent has not only registered but used the disputed domain names, which are based on Complainant’s H2O.AI and H2O-related marks for websites that attempt to pass themselves off as official login pages for Complainant and its services. Such actions, which amount to fraud, are opportunistic and in bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds Respondent’s registration and use of the disputed domain names to target Complainant for a fraudulent purpose constitutes bad faith under the Policy.

8. 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 names, <h2oai.io> and <h2oaii.io>, be transferred to Complainant.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: September 9, 2024