

ADMINISTRATIVE PANEL DECISION

Wolfspeed, Inc. v. DOMAIN ADMINISTRATOR, DOMAIN IS FOR SALE AT WWW.DAN.COM ---- c/o Dynadot / DOMAIN ADMINISTRATOR, DOMAIN IS FOR SALE AT WWW.DAN.COM ----

Case No. D2022-1795

1. The Parties

Complainant is Wolfspeed, Inc., United States of America, represented by SafeNames Ltd., United Kingdom.

Respondent is DOMAIN ADMINISTRATOR, DOMAIN IS FOR SALE AT WWW.DAN.COM ---- c/o Dynadot, United States of America / DOMAIN ADMINISTRATOR, DOMAIN IS FOR SALE AT WWW.DAN.COM ----, Cayman Islands, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <wolfspeedwolfpack.com> was registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 18, 2022. On May 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 20, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on May 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 13, 2022.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on June 20, 2022. 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, Wolfspeed, Inc., is an American company founded in 1987 focused on technological innovation, especially technology and production of silicon carbide. Complainant has over 3,500 employees and has facilities in over eight countries, offering its products and services internationally by partnering with retailers.

Complainant owns trademark registrations for the sign WOLFSPEED, as can be seen on the list of examples below:

| Registration No. | Trademark | Jurisdictions | International Classes | Date of Registration |
|------------------|-----------|--------------------------|-----------------------|----------------------|
| 014730683 | WOLFSPEED | European Union | 9, 40, 42 | April 15, 2016 |
| 3087239 | WOLFSPEED | India | 9, 40, 42 | October 27, 2015 |
| 1730375 | WOLFSPEED | Australia | 9, 40, 42 | August 10, 2016 |
| 5530599 | WOLFSPEED | United States of America | 9, 40, 42 | July 31, 2018 |
| TMA1044420 | WOLFSPEED | Canada | 9, 40, 42 | July 25, 2019 |

Further, Complainant uses the website “www.wolfspeed.com”, and has trademark registrations for the trademark WOLFSPEED WOLFPACK in China (No. 56278503), the European Union (No. 018480364, applied on May 28, 2021, and registered on December 2, 2021), and has a trademark application in the United States of America (application No. 90736255).

The disputed domain name was registered on May 29, 2021 and redirects to the webpage “www.dan.com”, where the disputed domain name is offered for sale.

5. Parties’ Contentions

A. Complainant

Complainant pleads that the disputed domain name is confusingly similar to its registered trademark WOLFSPEED, since it fully incorporates Complainant’s trademark WOLFSPEED with the addition of the term “wolfpack”.

Complainant also notes that Complainant introduced its WOLFSPEED WOLFPACK brand in 2021 and applied for the referred trademark prior to the registration of the disputed domain name.

Therefore, according to Complainant, the disputed domain name is confusingly similar to Complainant's trademark WOLFSPEED, fulfilling paragraph 4(a)(i) of the Policy.

In addition, Complainant states that Respondent does not have any rights or legitimate interests in respect of the disputed domain name, nor is Respondent commonly known by the disputed domain name. Further, Respondent has not been authorized, or licensed to use Complainant's trademark WOLFSPEED as a domain name nor is Respondent associated with Complainant.

Complainant observes that the disputed domain name redirects users to the webpage "www.dan.com", where the disputed domain name is being offered for sale at USD 1,800. Thus, Complainant alleges that Respondent intentionally attempts to obtain profit by selling the disputed domain name containing the trademark WOLFSPEED, and by provoking a similarity with the recently launched brand WOLFSPEED WOLFPACK, which would not constitute a *bona fide* offering of goods and services.

This way, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy has been fulfilled.

Moreover, Complainant states that its earliest WOLFSPEED trademark registration predates the date of registration of the disputed domain name by six years (as according to Annexes 1 and 11).

Further, Complainant affirms that this would be a case of "opportunistic bad faith", as defined by previous UDRP Panels, in which Respondent is taking advantage from the recent launch of the WOLFSPEED WOLFPACK brand and trademark applications in China (application No. 56278503), the European Union (application No. 018480364) and the United States of America (application No. 90736255).

Complainant also observes that Respondent has chosen to ignore a cease and desist letter sent concerning the disputed domain name on February 22, 2022, which would also indicate bad faith.

Complainant highlights that the disputed domain name resolves to the website "www.dan.com", where the disputed domain name is being sold, which would also indicate bad faith.

Finally, Complainant notes that Respondent has shown a similar pattern of behavior when registering domain names that are similar to recently filed trademark applications.

This way, Complainant states that Respondent has registered and used the disputed domain name in bad faith, thus paragraph 4(a)(iii) of the Policy has been fulfilled.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

A. Identical or Confusingly Similar

Complainant has duly proven that it owns rights for the trademark WOLFSPEED, and that the disputed domain name is constituted by the trademark WOLFSPEED in its entirety with the addition of the term "wolfpack". The Panel notes that according to Annex 10 to the Complaint, Complainant also has rights in the registered trademark WOLFSPEED WOLFPACK, which the Panel finds identical to the disputed domain name.

When compared to the trademark WOLFSPEED, the Panel finds that the addition of the term "wolfpack" does not prevent a finding of confusing similarity with Complainant's trademark WOLFSPEED –, as the trademark WOLFSPEED remains recognizable.

Thus, the Panel finds that the disputed domain name is identical or confusingly similar to Complainant's trademark, and so the requirement of the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") as follows: "[w]hile 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

In this case, noting the facts and contentions listed above, the Panel finds that Complainant has made out a *prima facie* case showing that Respondent lacks rights or legitimate interests in the disputed domain name, so the burden of production shifts to Respondent. As Respondent has not replied to Complainant's contentions, the Panel has considered Complainant's un rebutted *prima facie* case to be sufficient to demonstrate that Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, Respondent has not used the disputed domain name in the context of a *bona fide* offering of goods or services that could demonstrate legitimate interests, since evidence shows that the disputed domain name redirects to the website "www.dan.com", where the disputed domain name is being offered for sale at USD 1,800 (as duly proven on Annex 13).

Therefore, the Panel finds that the requirement of the second element of paragraph 4(a) of the Policy is also satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of circumstances that, without limitation, are deemed evidence of registration and use of a domain name in bad faith.

Respondent has registered the disputed domain name that fully incorporates Complainant's trademark WOLFSPEED, plus the addition of the term "wolfpack". The Panel finds that it is duly demonstrated that

Respondent was aware of Complainant's rights to the trademark WOLFSPEED at the time of the registration - as Complainant enjoys a worldwide reputation with the use of the referred trademark.

With that in sight, Panel finds that Respondent registered the disputed domain name with the intention of attracting Internet users and consumers in search of Complainant.

Moreover, Panel finds that the term "wolfpack" that accompany the trademark WOLFSPEED in the disputed domain name, consists of a reference that is linked with the Complainant's products (as duly proven on Annex 9). The Panel finds that the selection of the disputed domain name including the term "wolfpack" shows that Respondent targeted Complainant's nascent trademark rights in WOLFSPEED WOLFPACK – considering specially that the disputed domain name was registered shortly after Complainant filed trademark applications for WOLFSPEED WOLFPACK.

In addition, the Panel finds that the use of the disputed domain name to redirect to a webpage where the disputed domain name is being offered for sale, on the circumstances of the present case, also indicates bad faith. Paragraph 4(b)(i) of the Policy identifies the following circumstance as evidence of bad faith registration and use:

"circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name."

Considering that the disputed domain name was registered more than five years after Complainant's trademark registrations for WOLFSPEED, and shortly after Complainant filed trademark applications for WOLFSPEED WOLFPACK, the fact that the disputed domain name resolves to a website where the disputed domain name is offered for sale suggests a finding of a probable opportunistic bad faith in Respondent's acts.

Further, the registration of the disputed domain name in the present circumstances allows a finding of bad faith registration and use, considering Respondent's action as opportunistic bad faith, noting that the disputed domain name was registered shortly after Complainant announced its WOLFSPEED WOLFPACK brand. As discussed in *Roraj Trade, LLC v. Ilishijie/Domain Admin, Information Privacy Protection Services Limited* (WIPO Case No. [D2016-1222](#)), the registration of a disputed domain name that is associated with a recently announced feature indicates bad faith:

"The above, combined with the fact that the Respondent's registration of the of disputed domain name, which corresponds exactly to the Complainant's soon-to-be launched product line, took place the day after that product line was announced, leads the Panel to conclude that the disputed domain name was registered by the Respondent in bad faith with the intent to create an impression of an association with the Complainant and profit therefrom."

Finally, it should be noted that the failure of Respondent to respond to Complainant's cease and desist letter may be a factor to consider in the assessment of bad faith, as concluded by the panel in *Reed Smith LLP v. Reed Smith Capital* (WIPO Case No. [D2014-2123](#)):

"Complainant sent Respondent a series of letters, requesting that Respondent cease and desist the use of the disputed domain name, as the disputed domain name was confusingly similar to Complainant's REED SMITH mark. Respondent failed to reply to any of these demand letters. Complainant filed a Complaint in this matter, alleging that the disputed domain name was confusingly similar to Complainant's REED SMITH mark, that Respondent had no rights or legitimate interests in respect of the disputed domain name and that the disputed domain name was registered and is being used in bad faith. Respondent failed to reply to this Complaint. The Panel notes that paragraph 14(b) of the Rules gives the Panel discretion to draw such inferences from Respondent's default as it

considers appropriate. Accordingly, the Panel finds that Respondent has registered and is using the disputed domain name in bad faith.”

Panel finds that the fact that Respondent did not respond to any of Complainant’s contentions together with other circumstances of the case, such as the use of the disputed domain name to redirect to a website where the disputed domain name is offered for sale, in the circumstances of this case affirm a finding of bad faith.

In light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. Therefore, the requirement of the third element of paragraph 4(a) of the Policy is satisfied.

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, <wolfspeedwolfpack.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: July 13, 2022