

ADMINISTRATIVE PANEL DECISION

**IOTA Foundation v. Privacy Service provided by Withheld for Privacy ehf /
Super Green
Case No. DIO2022-0001**

1. The Parties

The Complainant is IOTA Foundation, Germany, internally represented.

The Respondent is Privacy Service provided by Withheld for Privacy ehf, Iceland / Super Green, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <iotam.io> (hereafter referred to as the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 17, 2022. On January 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 17, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 18, 2022, 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 January 19, 2022.

The Center verified that the Complaint together with the amendment to 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 January 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 15, 2022.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on February 18, 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

The Complainant, IOTA Foundation, is a non-profit organization based in Germany and active in the cryptocurrency industry. Its main business is the development and promotion of a distributed ledger technology (“DLT”) protocol named IOTA.

The Complainant holds various trademarks corresponding to or including the term IOTA, including the following:

- , international trademark No. 1461397, registered since December 6, 2018, in classes, 9, 35 and 42;

- IOTA, international trademark No. 1462017, registered since December 6, 2018, in classes, 9, 35 and 42;

- , United Kingdom (“UK”) trademark No. UK00801461397, registered on September 24, 2019, in classes, 9, 35 and 42, with a priority date on June 6, 2018; and

- IOTA, UK trademark No. UK00801462017, registered on September 24, 2019 in classes, 9, 35 and 42, with a priority date on June 6, 2018.

The Disputed Domain Name was registered on May 4, 2021. According to evidence provided by the Complainant, the Disputed Domain Name referred to a website offering cryptocurrency trading displaying the Complainant’s trademark (with the figurative sign).

On September 6 and September 14, 2021, the Complainant sent warning letters to the Respondent using the email address provided on the website linked to the Disputed Domain Name (“[...]@iotam.io”). On October 12, 2021, the Complainant also sent a warning letter to the encrypted email address provided by the Registrar. Apparently, no response was received.

5. Parties’ Contentions

A. Complainant

The Complainant considers the Disputed Domain Name to be confusingly similar to a trademark in which it claims to have rights. The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. According to the Complainant, the Respondent has not been commonly known by the Disputed Domain Name and has not been authorised to use the Complainant’s IOTA trademarks. Also, according to the Complainant, the Respondent has not used the Disputed Domain Name in connection with a legitimate noncommercial or fair use. Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. According to the Complainant, the Respondent registered and uses the Disputed Domain Name to intentionally attract Internet users for commercial gain by creating confusion with the Complainant’s trademarks.

B. Respondent

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

6. Discussion and Findings

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out his case and it is apparent, both from the terms of the Policy and the decisions of past .IO Policy panels, that the Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer the Disputed Domain Name.

Thus, for the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

- (i) The Disputed Domain Name is identical with 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 Disputed Domain Name; and
- (iii) The Disputed Domain Name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

To prove this element, the Complainant must first establish that there is a trademark or service mark in which it has rights. The Complainant has clearly established that there are trademarks in which it has rights. The Complainant's IOTA trademark has been registered and is being used in various countries in connection to the Complainant's technology and cryptocurrency business, including in the UK where the Respondent is located.

The assessment of identity or confusing similarity involves comparing the Disputed Domain Name and the textual components of the Complainant's mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element (see section 1.10 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").¹

The Disputed Domain Name incorporates the Complainant's IOTA word mark in its entirety, simply adding the letter "m" at the end. IOTA is also the obvious textual component of the Complainant's figurative marks mentioned above under section 4. Where the relevant trademark is recognizable within the Disputed Domain Name, the addition of other terms (or even an added letter) would not prevent a finding of confusing similarity under the first element (see section 1.8 of the [WIPO Overview 3.0](#)).

Additionally, it is well-established that the country-code Top-Level Domain ("ccTLD"), in this case ".io", may be disregarded when considering whether the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights (see, for example, *Teradata US, Inc. v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Andrei Mititelu*, WIPO Case No. [DIO2021-0031](#); *Government Employees Insurance Company ("Geico") v. Privacy.cc / Bulent Tekmen*, WIPO Case No. [DIO2020-0003](#); and section 1.11 of the [WIPO Overview 3.0](#)).

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 to be relevant to this case.

In light of the above, the Panel considers the Disputed Domain Name to be confusingly similar to the Complainant's IOTA trademark.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of proof with establishing that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

As established by previous .IO Policy and UDRP panels, it is sufficient for the Complainant to make a *prima facie* showing that the Respondent has no rights or legitimate interests in the Disputed Domain Name in order to place the burden of production on the Respondent (see *Teradata US, Inc. v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Andrei Mititelu, supra*; and section 2.1 of the [WIPO Overview 3.0](#)).

The Panel notes that the Respondent has not apparently been commonly known by the Disputed Domain Name and that the Respondent does not seem to have acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is "Super Green". The Respondent's use and registration of the Disputed Domain Name was not authorized by the Complainant. There are no indications that a connection between the Complainant and the Respondent exists or existed.

Beyond looking at the domain name and the nature of any additional terms appended to it, UDRP panels assess whether the overall facts and circumstances of the case, such as the content of the website linked to the disputed domain name and the absence of a response, support a fair use or not (see sections 2.5.2 and 2.5.3 of the [WIPO Overview 3.0](#)).

The Disputed Domain Name incorporates the Complainant's IOTA trademark and simply adds the letter "m". Based on the evidence provided by the Complainant, the Panel observes that the Disputed Domain Name used to refer to website prominently mentioning "IOTA MARKET" several times at the top and bottom of the page. In the Panel's view, the letter "m" in the Disputed Domain Name can be considered by Internet users as referring to the word "market" on the linked website.

Moreover, the Panel observes that the website linked to the Disputed Domain Name also copied the figurative sign included in the Complainant's figurative trademarks as shown above under section 4. Finally, the website linked to the Disputed Domain Name appeared to invite Internet users to deposit money in the framework of a cryptocurrency trading platform. In the Panel's view, such use of the Disputed Domain Name can be easily linked to the Complainant's cryptocurrency business and does not amount to a legitimate noncommercial or fair use.

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been rebutted.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the Disputed Domain Name. In light of the above, the Complainant succeeds on the second element of the Policy.

C. Registered or Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, the Complainant must prove that the Disputed Domain Name was registered in bad faith or that it is being used in bad faith.

Paragraph 4(b) of the Policy provides a non-exclusive list of factors, any one of which may demonstrate bad faith. Among these factors demonstrating bad faith registration and use is the use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or

endorsement of the website or location or of a product or service on the website or location.

In the present case, the Panel finds that it is inconceivable that the Respondent was unaware of the Complainant and its trademark rights when it registered the Disputed Domain Name. The Disputed Domain Name includes the Complainant's trademark in its entirety, and the website linked to the Disputed Domain Name even displayed a copy of the Complainant's logo protected by figurative trademarks, including in the UK where the Respondent provided an address at the registration of the Disputed Domain Name. In the Panel's view, the Respondent's awareness of the Complainant's trademark rights at the time of registration suggests bad faith (see *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#)).

The Respondent has used the Disputed Domain Name to redirect to a website which appeared to offer services similar to or at least related the Complainant's cryptocurrency services. As mentioned above, this website included copies of the Complainant's logo included in figurative trademarks. In the Panel's view, this indicates that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trademark.

Moreover, the Complainant provides evidence indicating that the services offered on the website linked to the Disputed Domain Name may be a scam. Finally, the Panel notes that the Respondent did not respond to the Complainant's cease-and-desist letters. The Panel considers that the inference of bad faith is further strengthened by these circumstances.

By failing to respond to the Complaint, the Respondent did not take any initiative to contest the foregoing. Pursuant to paragraph 14 of the Rules, the Panel may draw the conclusions it considers appropriate.

Therefore, the Panel finds that, on the balance of probabilities, it is established that the Disputed Domain Name was registered and used in bad faith. In light of the above, the Complainant also succeeds on the third and last 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 <iotam.io> be transferred to the Complainant.

/Flip Jan Claude Petillion/

Flip Jan Claude Petillion

Sole Panelist

Date: March 2, 2022