

ADMINISTRATIVE PANEL DECISION

Salesforce, Inc. v. Dave More
Case No. D2022-2296

1. The Parties

Complainant is Salesforce, Inc., United States of America (“United States” or “U.S.”), represented by Winterfeldt IP Group PLLC, United States.

Respondent is Dave More, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <tab-leau.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 24, 2022. On June 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 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 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 Respondent of the Complaint, and the proceedings commenced on July 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 2, 2022.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on August 12, 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 is Salesforce, Inc., a corporation with its headquarters in the San Francisco, California, United States.

Complainant was founded in 1999, is the world's leading customer relationship management (CRM) platform, and provides CRM and a variety of other cloud-based software as a service product to over 150,000 companies worldwide.

Complainant has regional headquarters in Morges, Switzerland; Hyderabad, India; and Tokyo, Japan; and major offices in Toronto, Chicago, New York, London, Sydney, and Dublin.

Complainant owns registrations in jurisdictions around the world for trademark TABLEAU, which include, but are not limited to, the following:

- a. TABLEAU (U.S. Reg. No. 3,011,500) in Class 9, used in commerce since January 2003 and registered on November 1, 2005;
- b. TABLEAU SOFTWARE (U.S. Reg. No. 3,013,420) in Class 9, used in commerce since January 2003 and registered on November 8, 2005;
- c. TABLEAU (stylized) (U.S. Reg. No. 4,835,828) in Classes 9, 41, and 42, used in commerce since January 19, 2015 and registered on October 20, 2015; and
- d. TABLEAU (Chilean Reg. No. 1247147) in Classes 9, 41, and 42 registered on May 10, 2017.

Complainant also owns the <tableau.com> domain name (registered on June 24, 1996). The <tableau.com> domain name has been used in Complainant's business since 1996 and has been continuously used and associated with Complainant's business since that time. Currently, the <tableau.com> domain name directs Internet users to Complainant's website located at "www.tableau.com", which makes substantial use of the trademark TABLEAU.

The disputed domain name was registered on March 14, 2022, and resolved to an error page according to the screen capture provided by Complainant. According to the evidence provided by Complainant, the disputed domain name has also been used by Respondent to send phishing emails to Complainant's customers asking for payment.

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain name is identical or confusingly similar to Complainant's prior registered TABLEAU marks; that Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The disputed domain name is confusingly similar to Complainant's registered trademarks TABLEAU. The misspelling of Complainant's trademark in the disputed domain name does not prevent a finding of confusing similarity and it seems evident that it was intentional.

The disputed domain name is only relevantly different from Complainant's trademark by the inclusion of a hyphen between "tab" and "leau". It is well established that the generic Top-Level Domain ("gTLD") ".com", being a necessary component of a domain name, may be disregarded for the purpose of comparison under this ground. Several previous UDRP decisions, including cases specifically involving Complainant's marks, have found that a hyphen does not distinguish the domain name from a trademark in which a complainant has established rights. See e.g., *Salesforce.com, inc. v. Registration Private, Domains By Proxy, LLC / Doug Todd*, WIPO Case No. [D2022-2152](#), and *Giorgio Armani S.p.A. v. Iv kefeng*, WIPO Case No. [D2011-0740](#).

The Panel therefore concludes that the disputed domain name <tab-leau.com> is confusingly similar to Complainant's trademark TABLEAU.

The Panel finds the first element of the Policy has therefore been met.

B. Rights or Legitimate Interests

The disputed domain name was registered well after Complainant had registered and/or used the TABLEAU mark. Respondent willfully adopted Complainant's trademark within the disputed domain name in an attempt to unfairly capitalize on the valuable goodwill of Complainant's TABLEAU marks. The disputed domain name does not reflect Respondent's common name or organization name. The disputed domain name is used in connection with a fraudulent scheme intended to deceive Complainant's customers into sharing their sensitive financial information or paying money to Respondent.

Respondent's use of the disputed domain name does not constitute a *bona fide* sale of goods or services or commercial use, nor a legitimate noncommercial or fair use. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), Section 3.1.4 which states that "[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Panels have moreover found the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent's commercial benefit, even if unsuccessful, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name, (iv) redirecting the domain name to a different respondent-owned website, even where such website contains a disclaimer, (v) redirecting the domain name to the complainant's (or a competitor's) website, and (vi) absence of any conceivable good faith use."

The Panel therefore concludes that Respondent has no right or legitimate interests in respect of the disputed domain name.

The Panel finds the second element of the Policy has therefore been met.

C. Registered and Used in Bad Faith

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

Paragraph 4(b) of the Policy sets out a series of circumstances that if found provide evidence of registration and use in bad faith, namely:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name 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 the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website.

The disputed domain name confusingly similar to Complainant's TABLEAU marks was registered well after Complainant's registration and/or use of such marks and is being used to perpetrate a fraudulent email scheme intended to induce Complainant's customers to make payments to Respondent for financial gain. There is no doubt that Respondent knew about and is willfully targeting Complainant and its TABLEAU marks when registering the disputed domain name and by using the disputed domain name in the abovementioned fraudulent scheme Respondent is attempting to impersonate Complainant and confuse Complainant's customers in order to induce payment for Respondent's commercial gain which is clear evidence of bad faith registration and use. See [WIPO Overview 3.0](#), Section 3.1.4; see, e.g., *salesforce.com, inc. v. WhoisGuard Protected, WhoisGuard, Inc. / James Jamie, MCR*, WIPO Case No. [D2020-1861](#) ("The evidence submitted by the Complainant supports a finding that the Respondent was engaged in an attempt to pass itself off as the Complainant to induce the Complainant's customers into paying the Respondent's fake invoices for the latter's own benefit. The Respondent therefore used the disputed domain name in bad faith"); see, e.g., *Deutsche Bank AG v. Diego-Arturo Bruckner*, WIPO Case No. [D2000-0277](#) ("The domain name is so obviously connected with the Complainant and its services that its very use by someone with no connection with the Complainant suggests opportunistic bad faith").

The fact that the website to which the disputed domain name resolves is inactive does not prevent a finding of bad faith. See [WIPO Overview 3.0](#), Section 3.3.

The Panel therefore concludes that Respondent registered and is using the disputed domain name in bad faith.

The Panel finds the third element of the Policy has therefore been met.

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 <tab-leau.com> be transferred to Complainant.

/Eva Fiammenghi/

Eva Fiammenghi

Sole Panelist

Date: August 26, 2022