

ADMINISTRATIVE PANEL DECISION

The Chemours Company FC, LLC v. Cai Wen Tao
Case No. D2023-0722

1. The Parties

The Complainant is The Chemours Company FC, LLC, United States of America (“United States”), represented by Bates & Bates LLC, United States.

The Respondent is Cai Wen Tao, China.

2. The Domain Name and Registrar

The disputed domain name <teflonwire.com> is registered with Xiamen 35.Com Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 16, 2023. On February 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 20, 2023, 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 (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 20, 2023, 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 in English on February 20, 2023.

On February 20, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On the same day, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amendment to 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 the Respondent in English and Chinese of the Complaint, and the proceedings commenced on February 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 22, 2023.

The Center appointed Rachel Tan as the sole panelist in this matter on March 29, 2023. 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 is a global chemical company based in the United States who offers TEFLON branded products worldwide. TEFLON branded coatings are used on products ranging from cookware, apparel, automotive, home and garden, eyeglass lenses to wires and cables.

The Complainant is the owner of trade mark registrations for TEFLON in different countries, including United States Trade Mark Registration No. 1111147 registered on January 16, 1979 in class 1; United States Trade Mark Registration No. 1592650 registered on April 24, 1990 in class 1; China Trade Mark Registration No. 996014 registered on May 5, 1997 in class 1; and China Trade Mark Registration No. 7511230 registered on May 7, 2012 in class 24.

The Complainant is also the owner of a range of domain names, such as <teflon.com> and <teflon.net>.

The Respondent is Cai Wen Tao, China.

The disputed domain name was registered on July 12, 2022. However, access to the resolved website of the disputed domain name is forbidden.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the TEFLON mark. The inclusion of "wire" in the disputed domain name does nothing to alleviate any confusing similarity. Further, the generic Top-Level Domain ("gTLD") (*i.e.*, ".com") may generally be disregarded under the first element confusing similarity test.

The Complainant further alleges that the Respondent has no rights or legitimate interests to the confusingly similar disputed domain name. The Respondent does not appear to be commonly known by the disputed domain name and is not affiliated with the Complainant. The Complainant did not authorize the Respondent to register and use a confusingly similar domain name that tarnishes and dilutes its TEFLON mark. As the disputed domain name is currently parked and does not route to an active webpage, the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods/services or a legitimate non-commercial or fair use.

The Complainant finally asserts that the disputed domain name is filed in bad faith as it incorporates the Complainant's well-known TEFLON mark in its entirety without authorization to unfairly exploit the value of the TEFLON mark. The Respondent was aware, or at least should have known, of the Complainant's rights in the TEFLON mark. Further, inferences about bad faith can be drawn in light of the passive holding of the disputed domain name by the Respondent.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

Initially, the Panel must address the language of the proceeding. Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the Registration Agreement unless otherwise agreed by the parties, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The panel may choose to write a decision in either language, or request translation of either party's submissions.

In this case, the Registrar has confirmed to the Center that the language of the Registration Agreement as used by the registrant for the disputed domain name is Chinese. However, the Complainant has requested that English be adopted as the language of the proceeding for the reasons summarized below:

- (a) the disputed domain name is formed by word in English (*i.e.*, "wire");
- (b) the English language is the language most widely used in international relations and is one of the working languages of the Center;
- (c) the Complainant would have to retain specialized translation services at a cost very likely to be higher than the overall cost of these proceedings in order to proceed in Chinese;
- (d) the Respondent appears to be familiar with, and may be fluent in English as it has selected and registered the disputed domain name that incorporates English word in the second-level portion of the disputed domain; and
- (e) the Respondent chose to select and register an "English domain name" over a "Chinese domain name", both of which are available options to prospective domain registrants on the Registrar's website.

It is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding.

The Panel having considered the circumstances finds that English shall be the language of this proceeding. The reasons are set out below.

- (a) the Complainant is a company based in the United States. Requiring the Complainant to submit documents in Chinese would lead to delay and cause the Complainant to incur translation expenses;
- (b) the Respondent's choice of English word for the disputed domain name indicates some familiarity with the English language;
- (c) even if the Respondent does not possess a sufficient command of English to understand the Complaint, there were ample opportunities for the Respondent to raise an objection. The Center notified the Parties in English and Chinese of the Complainant's request, but the Respondent did not comment on the language of the proceeding and did not protest against the Complainant's request for English to be the language of the proceeding;

- (d) the Respondent has failed to participate in the proceeding even though the Center sent the notification of the Complaint in English and Chinese; and
- (e) the Complaint has been submitted in English. No foreseeable procedural benefit may be served by requiring Chinese to be used. On the other hand, the proceeding may proceed expeditiously in English.

6.2 Substantive Issues

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the TEFLON mark.

The Panel notes that the TEFLON mark is wholly encompassed within the disputed domain name. The positioning of the TEFLON mark makes it instantly recognizable as the most distinctive element of the disputed domain name. In cases where a domain name incorporates the entirety of a trade mark, 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. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Moreover, the additional word "wire" does not preclude a finding of confusing similarity between the TEFLON mark and the disputed domain name. It is accepted by previous UDRP panels that the addition to the complainant's trade marks of words or terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not affect the finding of confusing similarity of the disputed domain name from the registered trade mark under the first element of the Policy. Accordingly, the additional word "wire" does not affect the confusing similarity between the disputed domain name and the Complainant's TEFLON mark. See section 1.8 of the [WIPO Overview 3.0](#).

Lastly, it is permissible for the Panel to ignore the gTLD, in this case ".com", under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the disputed domain name is confusingly similar to the Complainant's mark and trade name. Accordingly, the Complainant has satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

In circumstances where the Complainant possesses exclusive rights to the TEFLON mark, whereas the Respondent seems to have no trade mark rights, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the burden of production shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not provided evidence of a legitimate noncommercial or fair use of the disputed domain name or reasons to justify the choice of the term "teflon" in the disputed domain name. Further, there is no indication to show that the Respondent is commonly known by the disputed domain name or otherwise has rights or legitimate interests in it. In addition, the Complainant has not granted the Respondent any license or authorization to use the Complainant's TEFLON mark or register the disputed domain name.

None of the circumstances in paragraph 4(c) of the Policy are present in this case. For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant's TEFLON mark had been registered well before the registration of the disputed domain name. Through use and advertising, the Complainant's TEFLON mark is known throughout the world. Search results using the term "teflon" on the Internet direct Internet users to the Complainant and its products, which indicates that an exclusive connection between the TEFLON mark and the Complainant has been established. As such, the Respondent either knew or should have known of the Complainant's TEFLON mark when registering the disputed domain name or has exercised "the kind of willful blindness that numerous panels have held support a finding of bad faith". See *eBay Inc. v. Renbu Bai*, WIPO Case No. [D2014-1693](#); *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#).

Section 3.1.4 of the [WIPO Overview 3.0](#) states 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 trade mark by an unaffiliated entity can by itself create a presumption of bad faith". In this case, the disputed domain name incorporates the Complainant's widely known TEFLON mark, thus creating a presumption of bad faith.

The Panel finds that the current inactive use of the disputed domain name in this case would not prevent a finding of bad faith under the doctrine of passive holding. In its determination, the Panel considered the degree of distinctiveness or reputation of the Complainant's TEFLON mark, as well as the Respondent's failure to respond in the face of the Complainant's allegations of bad faith. See section 3.3 of the [WIPO Overview 3.0](#).

The Respondent has kept silent in the face of the Complainant's allegations of bad faith. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name and, considering the Respondent's lack of rights or legitimate interests, and by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the third element under paragraph 4(a) 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, <teflonwire.com> be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: April 12, 2023