

ADMINISTRATIVE PANEL DECISION

Guy Carpenter & Company, LLC v. Chun Xie
Case No. D2024-4353

1. The Parties

The Complainant is Guy Carpenter & Company, LLC, United States of America (“United States”), represented by Seyfarth Shaw LLP, United States.

The Respondent is Chun Xie, Singapore, represented by MOTSNYI IP GROUP, Serbia.

2. The Domain Name and Registrar

The disputed domain name <metarisk.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 22, 2024. On October 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 23, 2024, 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 (Domains By Proxy, LLC, DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 24, 2024, 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 amended Complaint on October 29, 2024.

The Center verified that the Complaint together with the amended 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 of the Complaint, and the proceedings commenced on November 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2024. The Response was filed with the Center November 19, 2024.

The Center appointed Jeremy Speres, Evan D. Brown, and David E. Sorkin as panelists in this matter on January 8, 2025. The Panel finds that it was properly constituted. Each member of 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

Little information concerning the Complainant's business is provided in the Complaint other than to state that the Complainant is a Delaware, United States limited liability company which owns trademark registrations for its METARISK mark covering financial, insurance, and reinsurance services in various jurisdictions, including:

- United States Trademark Registration No. 2552305 METARISK in class 36, having a registration date of March 26, 2002, and a claimed first use in commerce date of 1995; and
- Singapore Trademark Registration No. 40202322058Y METARISK in classes 36, and 42, having a registration date of January 11, 2024.

According to the Complainant's cease and desist correspondence sent to the Respondent on August 28, 2024, which was annexed to the Response, the Complainant provides "risk and reinsurance intermediary services" and has, since 2011, offered a risk and capital management decision making tool under its METARISK mark, apparently "worldwide, including Singapore."

The Respondent is a shareholder and director of MTR Labs PTE Ltd, a company registered and based in Singapore and incorporated in 2020. The Respondent is also a shareholder and director of MTR Labs Limited, incorporated in 2021 in the British Virgin Islands. These two entities operate a risk financing start-up business under the METARISK mark specializing in digital assets and Web3 technology, with the goal of "bridging the gap between Web3 and risk management". The disputed domain name was acquired on behalf of this business, and MTR Labs PTE Ltd is the beneficial owner of the disputed domain name.

The disputed domain name was registered on January 8, 2003, by an unknown entity, and the Respondent acquired the disputed domain name by purchasing it from the Registrar on February 20, 2023, for SGD 33,409. The disputed domain name currently resolves to a website for the Respondent's METARISK business.

5. Parties' Contentions

A. Complainant

The Complainant's contentions can be summed up as follows:

The Respondent cannot claim rights or legitimate interests because any use of the Complainant's METARISK mark for financial and risk services constitutes trademark infringement.

The disputed domain name was registered and has been used in bad faith because a) it was registered after the Complainant's United States trademark was registered, which constitutes constructive notice of the Complainant's rights; and b) the disputed domain name is used to offer services similar to those covered by the Complainant's trademarks and Internet users are likely to be confused, thus constituting trademark infringement.

B. Respondent

The Respondent contends as follows:

The Respondent has a legitimate interest in the disputed domain name as before any notice of the dispute, he used the disputed domain name in connection with a bona fide offering of services, under paragraph 4(c)(i) of the Policy.

The disputed domain name consists of two dictionary words that describe the Respondent's business. The Respondent selected the disputed domain name because of this inherent appeal rather than to take advantage of the Complainant's mark.

The Complainant has provided no evidence of a reputation in its mark, and no evidence showing that the Respondent, based in Singapore, was or should have been aware of the Complainant's mark.

The Complainant's reliance on constructive notice has no place under the Policy, and in any event does not align with the limited circumstances where this doctrine has been applied by panels in the past.

The Complainant's case is one of trademark infringement, which is beyond the scope of the Policy.

6. Discussion and Findings

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 the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The entirety of the Complainant's registered METARISK mark is incorporated within the disputed domain name without more, excluding the Top-Level Domain ("TLD"). Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Given the Panel's findings in relation to the third element below, it is unnecessary to consider the second element.

C. Registered and Used in Bad Faith

The Panel's view is that the Complainant has not established, on balance of probabilities, that the disputed domain name was registered with the Complainant in mind.

There is no evidence in the record showing that the Complainant's mark enjoyed a reputation anywhere prior to acquisition of the disputed domain name by the Respondent in 2023, let alone in the Respondent's country of Singapore. Despite claiming that the Complainant's METARISK tool has been used worldwide, including in Singapore, the Complaint contains no evidence of this.

Pursuant to its general powers articulated inter alia in paragraph 10 of the Rules, and in the absence of any relevant evidence presented in the Complaint, the Panel's limited Internet searches show that the Complainant's mark does appear to be in use, but it is not clear that the Complainant's mark has at any point enjoyed a reputation anywhere, including in Singapore, or that the mark was in use in Singapore prior to acquisition of the disputed domain name by the Respondent.

There is no direct evidence in the record showing the Respondent's knowledge or targeting of the Complainant, and there are no other clear indicia of cybersquatting.

The Complainant does not appear to be the exclusive user of the METARISK mark. The Respondent has presented evidence of various third parties using the mark including German Trademark Registration No. 39720400 METARISK in the name of a third party in classes 9, 36, and 42, having a registration date of January 14, 1998, pre-dating any of the Complainant's trademark registrations. The METARISK mark is therefore not exclusive to the Complainant, and so even if the Respondent had conducted clearance searches prior to adopting the mark, it would not necessarily have been led to the conclusion that the disputed domain name would abuse the Complainant's rights. The [WIPO Overview 3.0](#), section 3.2.3, states:

"Noting the possibility of co-existence of trademarks across jurisdictions and classes of goods and services, and the fact that trademarks which may be inherently distinctive in one context may be generic in another, the mere fact of certain domain names proving identical or confusingly similar to third-party trademarks pursuant to a search does not however mean that such registrations cannot as such be undertaken or would automatically be considered to be in bad faith."

The fact that the mark has been used by various third parties does not ultimately vest the Respondent with a right or legitimate interest in the disputed domain name as such, but it does lend credence to the Respondent's assertion that the disputed domain name is attractive for its semantic value which is descriptive of the Respondent's business and was chosen for this reason. This is supported by the fact that the Panel has independently established, by viewing the Internet Archive records for the disputed domain name, that it was, for a few years circa 2010 – 2016, used by a Korean risk management firm. Additionally, this shows that the disputed domain name is capable of apparently bona fide use coexisting with the Complainant's offering.

Where a complainant's mark is not inherently distinctive and it also corresponds to a dictionary term or is otherwise inherently attractive as a domain name, as in this case, if a respondent can credibly show that the complainant's mark has a limited reputation and is not known or accessible in the respondent's location, panels may be reluctant to infer that a respondent knew or should have known that its registration would be identical or confusingly similar to the complainant's mark. [WIPO Overview 3.0](#), section 3.2.2.

It is noteworthy that, at the time the Complainant secured its earliest trademark registration in the early 2000s, Web3 and its link with the term "meta" could not have been contemplated by the Complainant. This tends to show that the Complainant adopted the mark for a meaning other than that contemplated by the Respondent, which supports the contention that the mark is capable of various meanings and may be attractive to different parties for different reasons not having to do with any association of the mark with the Complainant.

Although there is some commonality between the Parties' respective businesses in the overarching risk management space, the Parties do not appear to be competitive and appear to target different sectors and clients.

The Complainant's reliance on constructive notice is misplaced. Leaving aside the broader question of whether the doctrine has any place under the UDRP, the circumstances of this case do not meet the limited circumstances where panels have previously been prepared to apply the doctrine. Notably, only one of the Parties is located in the United States, and there is no evidence of a reputation in the Complainant's hands. [WIPO Overview 3.0](#), section 3.2.2.

The Respondent claims to have been founded in 2020, however there is no evidence in the record of any use by the Respondent of the METARISK mark prior to acquisition of the disputed domain name in early 2023, nor can the Panel find any such evidence based on limited Internet searches. Although the Respondent's Singapore company name was apparently changed in 2021 to "MTR Labs PTE Ltd", with "MTR" being a possible contraction of "METARISK", it is not clear from the record when the Respondent first adopted METARISK. Nevertheless, nothing much turns on this. The Complainant's Singapore trademark was applied for in October 2023, after the Respondent had acquired the disputed domain name, and, as discussed above, there is nothing in the record indicating that the Respondent was or should have been aware of the Complainant prior to this date or that it targeted the Complainant.

On balance, the Complainant's case may be one of alleged trademark infringement as opposed to bad faith cybersquatting as required under the Policy and stands to be denied.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Jeremy Speres/
Jeremy Speres
Presiding Panelist

/Evan D. Brown/
Evan D. Brown
Panelist

/David E. Sorkin/
David E. Sorkin
Panelist
Date: January 22, 2025