

ADMINISTRATIVE PANEL DECISION

Wolfspeed, Inc. v. Andriy Levshevych
Case No. D2024-4792

1. The Parties

The Complainant is Wolfspeed, Inc., United States of America (“United States”), represented by SafeNames Ltd., United Kingdom.

The Respondent is Andriy Levshevych, France.

2. The Domain Name and Registrar

The disputed domain name<woifspeed.com> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 20, 2024. On November 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 21, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 21, 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 November 22, 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 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 17, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on December 23, 2024. 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 United States based company founded in 1987 as Cree, Inc., operating as a marketer and manufacturer of lighting-class LED's, lighting products and products for power and radio frequency applications. The Complainant is also one of the leading suppliers of silicon carbide semiconductors to the automotive industry. The Complainant was initially used as a subsidiary brand for Cree, Inc., from 2015 to 2021, before becoming its principal brand. The Complainant has over 4,500 employees and has offices located in 15 countries.

The Complainant is the owner of the following trademarks, among others: WOLFSPEED, United States Trademark Registration No. 5,530,599, registered on July 31, 2018, in international classes 9, 40 and 42, WOLFSPEED, European Union Trademark Registration No. 014730683, registered on April 15, 2016, in international classes 9, 40 and 42; and WOLFSPEED, India Trademark Registration No. 3087239, registered on October 27, 2015, in international classes 9, 40 and 42 (hereinafter collectively referred to as the "WOLFSPEED Mark").

The Complainant owns the domain name <wolfspeed.com> that resolves to the Complainant's official online website at "www.wolfspeed.com" and on which the Complainant advertises its services and provides information for investors. The Complainant claims that, in addition to its official website, it has registered many domain names featuring the WOLFSPEED Mark, using various generic Top-Level Domains ("gTLD") and country-code Top-Level Domains ("ccTLD").

The disputed domain name was registered on October 17, 2024, and is currently not used actively.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- the disputed domain name is confusingly similar to the Complainant's trademark as it incorporates a misspelling of the WOLFSPEED Mark, specifically replacing the letter "l" with the letter "i" in the trademark, and then adding the gTLD ".com", which misspelling does not prevent a finding of confusing similarity;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name because the Complainant has not authorized the Respondent to register a domain name containing the WOLFSPEED Mark, the Respondent was not making a bona fide offering of goods or services, and the Respondent has never been commonly known by the WOLFSPEED Mark, or any similar name; and
- the disputed domain name was registered and is being used in bad faith. The Respondent uses typo squatting in the disputed domain name, and since it is a well-established principle that non-use of the domain name does not prevent a finding of bad faith, the overall circumstances of the case support a finding of bad faith use under the passive holding doctrine
- that the Respondent has engaged in a pattern of abusive conduct by registering other domain names that encompass the marks of third-party brands, which is a conduct that is indicative of bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

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

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

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 disputed domain name is confusingly similar to the mark for the purposes of the Policy, since the disputed domain name "consists of a common, obvious, or intentional misspelling" of the trademark. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

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

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise. In the absence of any explanation by the Respondent, the Panel finds that the misspelling of the Complainant's trademark in the disputed domain name signals an intention on the part of the Respondent to confuse users seeking or expecting the Complainant. The Panel also notes that the evidence provided by the Complainant shows that the disputed domain name is flagged as "malicious" by an Internet browser, which to the Panel reinforces this finding.

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

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent has not offered any explanation for having registered a domain name that is quasi-identical to the Complainant's distinctive trademark and its official domain name <wolfspeed.com>. Given the circumstances of the case, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark.

The Panel therefore finds that the disputed domain name was registered in bad faith.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, the composition of the disputed domain name, and the provision by the Respondent of the false or incomplete contact details when registering the disputed domain name (the courier service was not able to dispatch the Center's written communication), and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Noting that the disputed domain name incorporates a typosquatted version of the well-known trademark, that the Respondent has failed to participate in these proceedings, that the disputed domain name is flagged as "malicious" by an Internet browser, according to the evidence submitted by the Complainant, and considering all the facts and evidence, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

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 <woifspeed.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: January 9, 2025