

ADMINISTRATIVE PANEL DECISION

Gong Galaxy v. Jeffrey Gong, Gong Inc
Case No. D2025-0500

1. The Parties

The Complainant is Gong Galaxy, France, represented by AtlantIP, France.

The Respondent is Jeffrey Gong, Gong Inc, United States of America (“United States”), represented by Jaburg & Wilk, P.C., United States.

2. The Domain Name and Registrar

The disputed domain name <gong.com> is registered with TurnCommerce, Inc. dba NameBright.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 7, 2025. On February 10, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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, Name Bright Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 11, 2025, 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 February 13, 2025.

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 February 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2025. The Response was filed with the Center on March 6, 2025.

The Center appointed Matthew Kennedy as the sole panelist in this matter on March 10, 2025. 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 French private company that provides energy drinks and water sports accessories. It holds trademark registrations in multiple jurisdictions, including the following:

- French trademark registration number 95 592 978 for GONG, registered on October 18, 1995, specifying certain drinks in classes 32 and 33. That trademark registration is current;
- French trademark registration number 4447894 for GONG FACTORY, registered on April 20, 2018, specifying certain water sports equipment, clothing, surfboards, and accessories, in classes 9, 12, 18, 22, 25, and 28. That trademark registration is current; and
- International trademark number 1795964 for GONG, registered on January 10, 2024, designating multiple jurisdictions, including the United States, where it is currently pending.

The Complainant also registered the domain name <gong-galaxy.com> on September 18, 2018, which it uses in connection with a website providing information about itself and its products, including clothing, surfboards, and accessories. The title of the website is a logo consisting of “Gong” and a device. According to the website, the Complainant has about 50 skilled employees and its factory produces about 200 boards per year.

The Respondent is an individual born in 1965 and the company that he incorporated with the Arizona Corporation Commission in 2015 to provide consulting/software development services. The Respondent’s profile is published on LinkedIn.

The disputed domain name was created on March 3, 1997. Since a point in time no later than April 2019, the Respondent has used the disputed domain name for email. Since May 2020, the Respondent used the disputed domain name in connection with a website promoting an encrypted key storage solution that displayed the Respondent company’s name and contact details, including two email addresses. On February 16, 2023, the Complainant contacted the Respondent via both email addresses shown on the Respondent’s website, introduced itself and its activities, and asked whether the Respondent would be open to discuss an eventual transfer/purchase of the disputed domain name. The Respondent did not reply.

Since December 2023, the Respondent has used the disputed domain name to resolve to a “coming soon” page.

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 GONG trademark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been granted, assigned, licensed, sold, or transferred any rights in the Complainant’s prior rights on GONG. According to the Complainant’s knowledge, the Respondent (i) does not hold any trademark consisting in whole or in part in the denomination GONG and (ii) has not been commonly

known by the disputed domain name GONG.com. The Respondent is not using the disputed domain name in connection with any bona fide offering of goods and services.

The disputed domain name has been registered and is being used in bad faith. Given the significant reputation of the Complainant worldwide in the field of energy drinks and water sports and its prior right in the GONG trademark, the Respondent should have reasonably known of the Complainant's existence when he registered the disputed domain name. The disputed domain name prevents the Complainant from using its GONG trademark in the most needed and valuable generic Top-Level Domain ("gTLD"), which seriously harms and disrupts the Complainant's business. The disputed domain name resolves to a "coming soon" page. The Respondent may use fake email addresses to scam consumers or even internal associates of the Complainant. The disputed domain name was registered using a privacy service. There is some doubt about the accuracy of the contact details and even the Respondent's very existence because (i) he does not answer any communication; and (ii) no clear information can be found about him, his activities, real location, activities or whether "Jeffrey Gong" is a mere pseudonym.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Respondent contends that he has rights and legitimate interests in the disputed domain name on two grounds. First, he has continually used and been commonly known by the surname "Gong" for his entire life and professional career. Second, he has made a legitimate commercial use of the disputed domain name in connection with his company Gong Inc.

The Respondent argues that the Complainant's accusations concerning bad faith are particularly frivolous. The Complainant provides no evidence whatsoever of its alleged "significant reputation" or why the Respondent should have known about it when he registered the disputed domain name. The Complainant apparently did not see the need for an online presence until 2018, when it registered its present domain name. While the Complainant asserts that it obtained trademark rights in France in 1995, the Respondent had no knowledge of the Complainant until it contacted him to try to buy the disputed domain name in 2023. The Complainant did not seek to extend its trademark rights to other countries until 2024. A "coming soon" page does not tend to establish bad faith. The Respondent has never tried to pass his business or services off as affiliated with those of the Complainant. His business has nothing to do with water sports or energy drinks. His website has been down since late 2023. The Complainant saw the website before then and, if it truly had questions about the Respondent, it could have taken any number of actions to investigate further, such as making a telephone call, or conducting a company search or a Google search. Any doubt that the Complainant had as to the Respondent's existence does not demonstrate bad faith on the part of the Respondent.

The Respondent submits that the Complainant should have never brought this case. The Complainant filed an unjustified action after its efforts to purchase the disputed domain name were unsuccessful. It knew or should have known that the Respondent had a legitimate interest in the disputed domain name. It encountered the Respondent's company and contact details more than two years ago. The Whois information indicates that the disputed domain name was registered nearly 30 years ago and that there has been no change in ownership since then. Yet the Complainant misleadingly fails to disclose the details of its knowledge. It misleadingly claims that it could not find any evidence of the existence of the Respondent online. It misleadingly suggests that it has been granted trademark protection in the United States. It presents no evidence whatsoever to support its claim of bad faith registration and use but relies exclusively on unsupported arguments and speculation. This is an improper and abusive use of the administrative procedure. The Respondent should not have been forced to incur the time and expense of preparing its defense. The Complainant is represented by counsel.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following elements:

- (i) the disputed domain name is identical 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 and is being used in bad faith.

Failure to prove any one of the above elements will result in denial of the Complaint.

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. See 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 the GONG mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the GONG mark is reproduced within the disputed domain name with no additional element besides a gTLD extension (".com"). Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7 and 1.11.1.

Therefore, 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. The second of these is as follows:

"(ii) [the respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the respondent has] acquired no trademark or service mark rights;"

The Respondent claims that he is commonly known by the surname "Gong". The Registrar verified that the Respondent's surname is "Gong", as shown in the Whois database. The Respondent provides evidence that this is his real surname, as shown on his passport card issued by the United States Department of State, his driver's license issued by the Arizona State government, his bachelor degree diploma issued by the University of Arizona in 1988, his master's degree diploma issued by the University of Arizona in 2007, the officer and statutory agent information for his company as shown in its articles of incorporation filed with the Arizona Corporation Commission in 2015, subsequent annual reports and an online entity database, and an exchange of emails between the Respondent and a third party in April 2019. There is no evidence on the record indicating that the Respondent has been known by any other name. His surname is identical to the distinctive component of the disputed domain name, i.e., excluding the gTLD extension. Based on this evidence, the Panel finds that the Respondent has been commonly known by the disputed domain name within the terms of paragraph 4(c)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.3; and, for example, *CKL Holdings N.V. v. Paul Flammea*, WIPO Case No. [D2016-1340](#).

Given the above finding, it is unnecessary for the Panel to consider the Respondent's other claimed legitimate interest arising from use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of services within the terms of paragraph 4(c)(i) of the Policy.

Therefore, the Panel finds the second element of the Policy has not been established.

C. Registered and Used in Bad Faith

Even though the Panel has already found that the second element of the Policy has not been established, the Panel considers it useful to make additional findings regarding the third element, as these may be taken into account in Section 6.D below.

The Panel notes that the third element of paragraph 4(a) of the Policy contains two requirements that apply conjunctively. A complainant must show both that the disputed domain name has been registered in bad faith and also that it is being used in bad faith. The former requires a demonstration that the Respondent knew, or should have known of the Complainant and/or the Complainant's trademark at the time when it registered or acquired the disputed domain name and that it registered the disputed domain name with a bad faith intention targeting the Complainant and/or its mark.

In the present case, the disputed domain name was registered in 1997. While the Complainant alleges that it had a significant reputation worldwide and a prior trademark such that the Respondent should have reasonably known of its existence when he registered the disputed domain name, the Complainant provides no evidence to substantiate the allegation regarding its reputation. The Respondent is located in the United States and there is no evidence that the Complainant has any activities or sought any trademark rights in that country until recently. The Parties do not operate in related sectors. As for its online presence, the Complainant did not register its own domain name until over 20 years after the Respondent registered the disputed domain name, and there is no basis on which to find that an Internet search for "gong" in the United States prior to the registration of the disputed domain name would have alerted the Respondent to the existence of the Complainant Gong Galaxy or its GONG mark. The Complainant's mark was registered in France in 1995 but the Panel does not deem the Respondent to have constructive notice of the contents of the French trademark register. The Respondent declares that he had never previously heard of the Complainant and the Panel sees no reason to doubt that declaration.

Accordingly, the evidence as presented does not indicate that the Respondent knew, or should have known, of the Complainant and/or its trademark at the time when he registered the disputed domain name.

Therefore, the Panel finds the third element of the Policy has not been established.

D. Reverse Domain Name Hijacking

Paragraph 1 of the Rules defines "Reverse Domain Name Hijacking" as using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name. Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of a complaint is not, on its own, sufficient to constitute reverse domain name hijacking. See [WIPO Overview 3.0](#), section 4.16.

The Respondent submits that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The Respondent alleges that the Complainant is aware that (i) the Respondent has rights and legitimate interests in the disputed domain name; and (ii) the Respondent did not register or use the disputed domain name in bad faith. The Respondent alleges that when the Complainant's efforts to purchase the disputed domain name failed, the Complainant filed this proceeding in bad faith, in hopes that the Respondent would default and allow it to wrest control of the disputed domain name without justification.

With respect to (i), it can be deduced from prior correspondence that the Complainant had visited the Respondent's former website, but it was not clear from that website that Gong was the Respondent's surname, the website is no longer active, and the Respondent uses a privacy service. Accordingly, the Panel does not find that the Complainant knew the Respondent had any rights or legitimate interests in the disputed domain name.

However, with respect to (ii), the disputed domain name was registered 28 years ago. The Complainant made no effort to substantiate its allegation that it had a significant reputation at that time. The Complainant's mark is a short dictionary word and not highly distinctive. Although the Complainant alleged that the Respondent's registration and use of the disputed domain name disrupted its business, it lacked any evidence that this was the Respondent's aim. Instead, the Complainant engaged in speculation regarding the "coming soon" page, potential email scams, and the Respondent's existence, identity, and contact details. The Complainant has legal representation in this proceeding. In these circumstances, the Complainant clearly ought to have known it could not succeed under any fair interpretation of the facts and arguments that it presented. Even though the Complainant received no reply to its offer to discuss an eventual transfer/purchase, filing a Complaint under the UDRP alleging bad faith registration and use was not an appropriate course of action.

Therefore, the Panel finds that the Complaint was brought in bad faith and constitutes an attempt at Reverse Domain Name Hijacking.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: March 21, 2025