

## **ADMINISTRATIVE PANEL DECISION**

TomoCredit, Inc. v. Audrey Troutt, Tomo Networks, Inc  
Case No. D2025-0568

### **1. The Parties**

Complainant is TomoCredit, Inc., United States of America (hereinafter “United States”), represented by Friedland Cianfrani LLP, United States.

Respondent is Audrey Troutt, Tomo Networks, Inc, United States, represented by Pillsbury Winthrop Shaw Pittman LLP, United States

### **2. The Domain Name and Registrar**

The disputed domain name <tomo.com> (hereinafter the “Disputed Domain Name”) 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 February 13, 2025. On February 13, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 13, 2025, 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 (Tomo Mortgage, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on February 17, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 22, 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 Respondent of the Complaint, and the proceedings commenced on February 25, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2025. Respondent sent an email communication to the Center on March 5, 2025, and later filed its Response with the Center on March 14, 2025.

The Center appointed Sally Abel, Peter J. Dernbach, and Lawrence K. Nodine as panelists in this matter on April 24, 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

Complainant has used TOMO as a service mark in connection with credit services since 2019. Complainant offers some of its services on the website associated with the domain name <tomocredit.com>. Complainant owns two United States Trademark Registrations:

- TOMO, Registration No. 7,638,272 (Registered January 7, 2025);
- TOMO, Registration. No. 7,160,088, (Registered September 12, 2023).

Respondent is a home buying services company and the parent company of two wholly owned operating subsidiaries: Tomo Mortgage, LLC ("Tomo Mortgage") and Moto Real Estate, Inc. (dba Tomo Real Estate) ("Tomo Real Estate"). Respondent uses TOMO as a trademark in connection with a range of home buying services, including mortgage lending, real estate listings, and real estate lead generation services.

Respondent has been using TOMO as a trademark in connection with its business since 2020.

On May 8, 2020, Respondent incorporated under the name "Tomo Networks, Inc." in Delaware, United States.

In the Fall of 2020, Respondent investigated buying the Disputed Domain Name, which was owned by a Japanese entity. Respondent engaged two consultants<sup>1</sup> to contact the Japanese owner. In the interim, Respondent registered and used two substitute domain names that included TOMO as a component.

On October 31, 2020, Respondent started using the domain name <tomonetworks.com> and on June 30, 2021, Respondent started using the domain name <hellotomo.com>.

On October 2, 2020, Respondent applied for a United States Trademark Registration for TOMO, and subsequently secured Registration No. 6,647,787 (Registered February 15, 2022).

On August 5, 2022, Complainant sent Respondent a cease-and-desist letter advising Respondent of its trademark rights and demanding that Respondent stop using TOMO as a trademark. Respondent declined.

On July 17, 2023, Complainant petitioned to cancel Respondent's United States Trademark Registration No. 6,647,787 for TOMO. Respondent did not respond to this petition and, consequently, the registration was cancelled on October 18, 2023.

On September 11, 2023, Respondent purchased the Disputed Domain Name and thereafter forwarded traffic from its <tomonetworks.com> and <hellotomo.com>.

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<sup>1</sup> Respondent submits as evidence two invoices - one dated September 14, 2020, and the other dated November 24, 2020 - documenting payments to these consultants for efforts to identify and open negotiations with the owner of the <tomo.com> domain name.

## **5. Parties' Contentions**

### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

### **B. Respondent**

Respondent contends that Complainant has not satisfied all three of the elements required under the Policy for a transfer of the Disputed Domain Name. In particular, Respondent contends that it began using business names that correspond to the Disputed Domain Name before notice of the dispute. Policy 4(c)(i).

## **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 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.

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 mark is reproduced within the Disputed Domain Name. 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 acknowledges Respondent's contention that its services are different and distinguishable from Complainant's, but this contention is not relevant to this element of the Policy, [WIPO Overview 3.0](#), section 1.1.2, although it would, of course, be relevant in the event of infringement litigation in court.

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

### **B. Rights or Legitimate Interests**

The Panel finds that, before notice to Respondent of the dispute, Respondent used a name corresponding to the Disputed Domain Name in connection with a bona fide offering of services. Policy paragraph 4(c)(i) and [WIPO Overview 3.0](#), section 2.2.

On August 4, 2022, Complainant sent a cease-and-desist letter to Respondent. There is no evidence that Complainant was well known before this date or any evidence that Respondent had actual knowledge of Complainant before it receiving this letter.

Respondent had been using TOMO for more than two years before it received Complainant's letter in August 2022. Respondent incorporated in Delaware as "Tomo Networks, Inc." in May 2020; secured United States Trademark Registration No. 6,647,787 (Registered February 15, 2022); began using <tomonetworks.com> on October 30, 2020; and began using <hellotomo.com> on June 30, 2021. Respondent conducted substantial business under these domain names - both of which correspond to the Disputed Domain Name - before receiving Complainant's cease-and-desist letter.

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

### **C. Registered and Used in Bad Faith**

The evidence in the case file as presented does not indicate that Respondent's aim in registering the Disputed Domain Name was to profit from or exploit Complainant's trademark.

Although Respondent had actual notice of Complainant's claim of trademark rights before it purchased the Disputed Domain Name in September 2023, the evidence demonstrates that Respondent's interest in the Disputed Domain Name began long before. In September and November of 2020 Respondent paid two different investigators for assistance contacting the prior owner of the Disputed Domain Name, a Japanese entity. This evidence, in combination with evidence that Respondent conducted substantial business under names that include "Tomo" prior to any knowledge of the dispute or Complainant's alleged prior rights, persuades the Panel that Respondent was not targeting Complainant's good will when it registered the Disputed Domain Name.

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

### **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Lawrence K. Nodine/*

**Lawrence K. Nodine**

Presiding Panelist

*/Sally M. Abel/*

**Sally M. Abel**

Panelist

*/Peter J. Dernbach/*

**Peter J. Dernbach**

Panelist

Date: May 8, 2025