

ADMINISTRATIVE PANEL DECISION

CeramicSpeed A/S v. Name.com, Domain Protection Services, Inc. / Ngged Thdey
Case No. D2022-3150

1. The Parties

Complainant is CeramicSpeed A/S, Denmark, represented by Dykema Gossett PLLC, United States of America (“United States”).

Respondent is Name.com, Domain Protection Services, Inc., United States / Ngged Thdey, China.¹

2. The Domain Name and Registrar

The disputed domain name <ceramic-speed.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 25, 2022. On August 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 30, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on August 31, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on September 1, 2022.

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 Respondent of the Complaint, and the proceedings commenced on September 6, 2022. In accordance with the Rules, paragraph 5, the

¹ It is evident from the case file that Name.com, Domain Protection Services, Inc., United States, is a privacy protection service and that Ngged Thdey, China, is the underlying registrant of the disputed domain name. Therefore, unless otherwise indicated, the term “Respondent” is used by the Panel in the case at hand to refer to the latter underlying registrant only.

due date for Response was September 26, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on September 27, 2022.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on October 4, 2022. 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

Complainant is a company organized under the laws of Denmark whose business is to sell high-end ball bearings, ceramic ball bearings, and parts and fittings for land vehicles and bicycles throughout the United States and in many other countries throughout the world.

Complainant has provided evidence that it is the registered owner of numerous trademarks relating to its company name and brand CERAMICSPEED, *inter alia*, but not limited to the following:

- Word mark CERAMICSPEED, United States Patent and Trademark Office (USPTO), registration number: 5736135, registration date: April 30, 2019, status active;
- Word mark CERAMICSPEED, European Union Intellectual Property Office (EUIPO), registration number: 009369679, registration date: February 11, 2011, status: active.

Moreover, Complainant has evidenced to own the domain name <ceramicspeed.com>, which redirects to Complainant's official websites at "www.ceramicspeed.com", where Complainant offers e.g. its ball bearing products and related services worldwide.

Respondent, according to the disclosed Whois information for the disputed domain name, is a resident of China, who registered the disputed domain name on May 30, 2022. The latter resolves to a website at "www.ceramic-speed.com", which is a near replica of Complainant's official website at "https://ceramicspeed.com/en/cycling", selling unauthorized and presumably fake products branded under Complainant's CERAMICSPEED trademark and official logo.

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain name is nearly identical and confusingly similar to Complainant's CERAMICSPEED trademark as it consists of the latter in its entirety, with the terms "ceramic" and "speed" separated only by a hyphen. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Respondent is in no way affiliated with Complainant and did at no time seek or obtain a license from Complainant to use the disputed domain name, (2) by copying the look and feel of Complainant's official website including the CERAMICSPEED trademark, Respondent is blatantly misappropriating and trading off of the goodwill created by Complainant in this trademark, and (3) the website under the disputed domain name includes a variety of false information, e.g. regarding the ownership of the CERAMICSPEED trademark or regarding the contact information, demonstrating that the disputed domain name is not used in connection with a *bona fide* offering of goods or services, but rather to fool consumers and presumably to direct traffic to Respondent's website for commercial gain. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) given that Respondent copied Complainant's CERAMICSPEED trademark and logo, there can be no question that Respondent was well aware of Complainant at the time the disputed domain name was registered, and (2) the use of the CERAMICSPEED trademark and logo on

Respondent's website under the disputed domain name is very clearly meant to confuse consumers as to the source, affiliation and authenticity of the products offered on such website for commercial gain.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that 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.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

The Panel concludes that the disputed domain name is nearly identical to the CERAMICSPEED trademark, in which Complainant has rights.

The disputed domain name exclusively incorporates the entire CERAMICSPEED trademark, simply added by a hyphen, which may well be ignored for purposes of the straight forward threshold comparison to be undertaken between Complainant's trademark and the disputed domain name under the first element test (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7). Moreover, it has been held in many UDRP decisions and has become a consensus view among panelists (see [WIPO Overview 3.0](#), section 1.11) that the applicable top-level domain (TLD) in a domain name is generally viewed as a standard registration requirement and as such is disregarded under the first element test, too. Accordingly, neither the existence of the hyphen nor of the generic TLD ".com" does prevent the finding of near identity arising from the entire incorporation of Complainant's CERAMICSPEED trademark in the disputed domain name.

Therefore, Complainant has established the first element under the Policy set forth by paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Panel is further convinced on the basis of Complainant's undisputed contentions that Respondent has not made use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor has Respondent been commonly known by the disputed domain name, nor can it be found that Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain.

Respondent has not been authorized to use Complainant's CERAMICSPEED trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the term "Ceramic Speed" on its own. To the contrary, Respondent, is running a website under the disputed domain name at "www.ceramic-speed.com", which is a near replica of Complainant's official website at "https://ceramicspeed.com/en/cycling", selling unauthorized and presumably fake products branded under Complainant's CERAMICSPEED trademark and official logo. Such making use of the

disputed domain name neither qualifies as *bona fide* nor as legitimate noncommercial or fair within the meaning of the Policy.

Accordingly, Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in respect of the disputed domain name. Now, the burden of production shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#), section 2.1). Given that Respondent has not submitted a Response, it has not met that burden.

Therefore, the Panel finds that Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel finally holds that the disputed domain name was registered and is being used by Respondent in bad faith.

The circumstances to this case leave no doubt that Respondent was fully aware of Complainant's rights in the CERAMICSPEED trademark when registering the disputed domain name and that the latter is clearly directed thereto. Moreover, using the disputed domain name, which is nearly identical to Complainant's CERAMICSPEED trademark, to run a website which is a near replica of Complainant's official website at "https://ceramicspeed.com/en/cycling", selling unauthorized and presumably fake products branded under Complainant's CERAMICSPEED trademark and official logo, thereby misleading Complainant's customers and trading off of the goodwill created by Complainant in the CERAMICSPEED trademark, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainant's CERAMICSPEED trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In this context, it also carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the Whois register for the disputed domain name since, according to a DHL tracking report of September 24, 2022, the Written Notice on the Notification of Complaint dated September 6, 2022, could not be delivered. This fact at least throws a light on Respondent's behavior which supports the Panel's bad faith finding.

Therefore, the Panel concludes that Complainant has also satisfied the third element under the Policy set forth by paragraph 4(a)(iii).

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 <ceramic-speed.com> be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: October 10, 2022