

ADMINISTRATIVE PANEL DECISION

The Chemours Company FC, LLC v. russell pauding
Case No. D2022-3875

1. The Parties

Complainant is The Chemours Company FC, LLC, United States of America (“United States”), represented by Bates & Bates, LLC, United States.

Respondent is russell pauding, United States.

2. The Domain Name and Registrar

The disputed domain name <protectedbyteflon.com> is registered with Wix.com Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 17, 2022. On October 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 26, 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 (Wix.com Ltd.) and contact information in the Complaint. The Center sent an email communication to Complainant on the same day, 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 October 31, 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 November 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 22, 2022.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on December 5, 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 2015 spin-off of E. I. du Pont de Nemours and Company (“DuPont”). In the late 1930’s, DuPont discovered the chemical compound Polytetrafluoroethylene (“PTFE”). In the mid-1940’s, DuPont coined the TEFLON mark to refer to its PTFE products.

Complainant owns the well-known TEFLON family of marks. Complainant owns registrations for the TEFLON trademark worldwide including, for example United States Registration No. 0418698, registered January 8, 1946 in International Class 17 with a first use in commerce date of October 9, 1944.

The disputed domain name was registered May 11, 2022 and does not route to an active webpage.

In 2020, Respondent incorporated “Teflon Security, LLC” in the Commonwealth of Massachusetts, apparently connected to Respondent’s business of providing and arranging for personal security as a bodyguard.

5. Parties’ Contentions

A. Complainant

Complainant avers that it offers TEFLON-branded products throughout the world in the fields of cookware, apparel, automotive, home and garden, eyeglass lenses, and wires and cables.

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is confusingly similar to Complainant’s TEFLON trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy.

On the above grounds, Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

The Rules require the Panel to decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Rules, paragraph 15(a). Complainant must establish each element of paragraph 4(a) of the Policy, namely:

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

Complainant must establish these elements even if Respondent does not submit a response. See, e.g., *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#). In the absence of a Response, the Panel may also accept as true the reasonable factual allegations in the Complaint. See, e.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

A. Identical or Confusingly Similar

The Panel agrees with Complainant's allegation that the disputed domain name is confusingly similar to Complainant's TEFLON marks.

UDRP panels commonly disregard Top-Level Domains ("TLDs") in determining whether a disputed domain name is identical or similar to a complainant's marks. See, e.g., *HUK-COBURG haftpflicht-Unterstützungs-Kasse kraftfahrender Beamter Deutschlands A.G. v. DOMIBOT (HUK-COBURG-COM-DOM)*, WIPO Case No. [D2006-0439](#); *VAT Holding AG v. Vat.com*, WIPO Case No. [D2000-0607](#); *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#).

Omitting the ".com" TLD from the disputed domain name, the Panel notes that the entire TEFLON mark is included in the disputed domain name, adding only the words "protected" and "by". The Panel finds that the addition of that two-word phrase to Complainant's TEFLON mark does not prevent a finding of confusing similarity.

The Panel therefore rules that the disputed domain name is confusingly similar to Complainant's marks. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, section 1.7 ("[WIPO Overview 3.0](#)") (UDRP panels often determine that disputed domain names are confusingly similar to a complainant's marks where the disputed domain names fully incorporate a complainant's marks).

The Panel concludes that the first element of paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests

The Panel also agrees with Complainant's conclusion that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of rebuttal passes to the respondent. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response. *Id.* (citing *De Agostini S.p.A. v. Marco Cialone*, WIPO Case No. [DTV2002-0005](#)).

The Panel accepts the Complaint's undisputed allegations that Respondent is not affiliated with Complainant and has no authorization or license to use Complainant's trademarks in the disputed domain name.

Although the Complaint does not address the question, it appears to the Panel that Respondent is not commonly known by the disputed domain name for the purposes of the Policy.¹

¹Most UDRP Complainants try to establish a *prima facie* case by making allegations addressing each of the three potential circumstances specified in Policy paragraphs 4(c)(i) – (iii) listed above. Complainant has not done so here, yet the Panel concludes that a *prima facie* case is established on the basis of available evidence and the relevant contentions that were put forward by Complainant. The public Whois record merely showed Respondent's identity as the Registrar, apparently in the role of a privacy service. Once the Registrar revealed the individual Respondent's actual identity, Complainant filed an amendment which simply repeated the newly revealed contact information, declining to provide further substantive allegations.

Finding further inquiry appropriate in these circumstances, the Panel has determined that Respondent has incorporated "Teflon Security, LLC" in Massachusetts. However, the Panel is comfortable finding that Respondent is not "commonly known by the [disputed] domain name," under Policy paragraph 4(c)(ii) because the disputed domain name does not directly correspond to the name of

Since the record indicates that the disputed domain name does not route to an active webpage, the Panel finds that Respondent is not making a *bona fide* use of the disputed domain name.

In light of the evidence and allegations of the Complaint, the Panel holds that Respondent is not making a legitimate noncommercial or fair use of the disputed domain name and a *prima facie* case has been established. Omitting to submit a response, Respondent has neither contested nor rebutted that *prima facie* case.

The Panel holds, therefore, that Respondent has no rights or legitimate interests in use of the disputed domain name and that the second element of paragraph 4(a) of the Policy is established.

C. Registered and Used in Bad Faith

The Panel also finds that the third element of paragraph 4(a) of the Policy, bad faith registration and bad faith use, is established, as elaborated below.

UDRP panels may draw inferences about bad faith in light of the circumstances, including passive holding, failure to respond to a complaint, and other circumstances. See, e.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); [WIPO Overview 3.0](#), section 3.2.1.

Respondent was undoubtedly aware of Complainant's distinctive and famous TEFLON mark. The mark had been registered for 76 years and enjoyed widespread use for many years before Respondent chose, without license or authorization, to register its confusingly similar disputed domain name. The Panel finds that Respondent deliberately included the mark in the disputed domain name to unfairly exploit the value of Complainant's marks. This is clear evidence of registration in bad faith.

Respondent's failure to respond to the Complaint and passive holding of the disputed domain name further support a finding of bad faith in these circumstances.

Accordingly, the Panel concludes that paragraph 4(a)(iii) of the Policy is satisfied.

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 <protectedbyteflon.com> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: December 8, 2022

Respondent's Massachusetts-incorporated entity, notably omitting the term "security". Moreover, respondents are expected to produce concrete credible evidence to support a claim of being commonly known by a domain name, and the Panel notes that the Respondent has not provided any such evidence or otherwise participated in the present proceeding (see section 2.3 of the [WIPO Overview 3.0](#)).