

ADMINISTRATIVE PANEL DECISION

Wolfspeed, Inc. v. Angela Collins
Case No. D2022-3908

1. The Parties

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

The Respondent is Angela Collins, United States.

2. The Domain Name and Registrar

The disputed domain name <wolfspeed.xyz> is registered with Sav.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 18, 2022. On October 19, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on October 20, 2022 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 October 24, 2022.

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 October 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 15, 2022.

The Center appointed Assen Alexiev as the sole panelist in this matter on November 22, 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

The Complainant was founded in 1987 as Cree, Inc. It markets and manufactures lighting-class LED's, lighting products and products for power and radio frequency applications. The Complainant is also a leading supplier of silicon carbide semiconductors to the automotive industry and a global leader in silicon carbide technology and production, with net annual revenue of over USD 900 million in 2020, and is listed on the New York Stock Exchange. It has constructed the world's largest silicon carbide fabrication facility in Marcy, New York, United States. The Complainant used the sign WOLFSPEED as a subsidiary brand from 2015 to 2021, and then adopted it as its main brand.

The Complainant is the owner of the following trademark registrations for the sign WOLFSPEED (the "WOLFSPEED trademark"):

- the European Union trademark WOLFSPEED with registration No. 014730683, registered on April 15, 2016 for goods and services in International Classes 9, 40, and 42;
- the United States trademark WOLFSPEED with registration No. 5530599, registered on July 31, 2018 for goods and services in International Classes 9, 40, and 42;
- the Indian trademark WOLFSPEED with registration No. 3087239, registered on October 27, 2015 for goods and services in International Classes 9, 40, and 42;
- the Australian trademark WOLFSPEED with registration No. 1730375, registered on October 26, 2015 for goods and services in International Classes 9, 40, and 42; and
- the Canadian trademark WOLFSPEED with registration No. TMA1044420, registered on July 25, 2019 for goods and services in International Classes 9, 40, and 42.

The Complainant is the owner of the domain name <wolfspeed.com>, and has used it since 2015 as the Complainant's official website. The Complainant is also the owner of the domain names <wolfspeed.co>, <wolfspeed.cn>, <wolfspeed.com>, <wolfspeed.kr>, <wolfspeed.net>, <wolf-speed.biz>, <wolfspeed.org>, <wolfspeeds.us>, <wolfspeed.design>, and <wolfspeed.asia>.

The disputed domain name was registered on May 28, 2022. It resolves to a webpage where it is offered for sale.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name is identical or confusingly similar to its WOLFSPEED trademark, which it incorporates entirely without the addition of other elements.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it has not registered any trademarks for WOLFSPEED and has not received any license from the Complainant to use the disputed domain name. The Complainant states that the Respondent is not known as Wolf speed, while the WOLFSPEED trademark is distinctive and used in commerce only by the Complainant. According to the Complainant, there is no plausible reason for the registration and use of the disputed domain name other than to take advantage of the goodwill and valuable reputation attached to the WOLFSPEED brand.

The Complainant submits that the Respondent offers the disputed domain name for sale at the price of USD 1,450. According to the Complainant, the primary purpose of the Respondent for the registration of the disputed domain name was to generate undue profit based on its value as a trademark.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It notes that the earliest registration of the WOLFSPEED trademark predates the registration of the disputed domain name by six years. The Complainant submits that the Respondent has registered the disputed domain name to intentionally target the Complainant's brand. The Complainant submits that a cease-and-desist letter was sent to the registrant of the disputed domain name on July 20, 2022 to put it on notice of the Complainant's trademarks and rights and with a view to resolving the matter amicably. The registrant's reply to this letter was "Get away".

The Complainant submits that the Respondent uses the disputed domain name to redirect to the domain aftermarket website at "www.dan.com", where the disputed domain name is listed for sale at a "buy now" price of USD 1,450. In the Complainant's view, this price is beyond what would reasonably be expected within the Respondent's out-of-pocket costs related to the disputed domain name. The Complainant maintains that the term "Wolfspeed" has no inherent meaning beyond its status as an already established brand of the Complainant, and asserts that the Respondent registered the disputed domain name primarily with the view of selling it to the Complainant or to its competitors for a sum in excess of the Respondent's out-of-pocket costs.

The Complainant submits that the Respondent has engaged in a pattern of registering trademark-abusive domain names to prevent trademark holders from reflecting their trademarks in corresponding domain names. The Complainant points out that the person who controlled the disputed domain name was involved in at least more than 10 previous domain name disputes, all of which resulted against it, and the Respondent's main pattern of conduct is to put the respective domain names for sale at a price in excess of its out-of-pocket costs for the registration and maintenance of those domain names. The Complainant adds that the Respondent is also using different aliases to hide its real identity and circumvent legal proceedings such as the UDRP.

B. Respondent

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

6. Discussion and Findings

6.1 Respondent's Identity

The original Complaint listed a Liuqingru from China as the Respondent. According to Annex 1 to the Complaint, the registrant information in the publicly available Whois database is a privacy service.

The Registrar disclosed the underlying registrant of the disputed domain name as "Angela Collins" from the United States.

In the amended Complaint, the Complainant has listed both "Angela Collins" and "Liuqingru" as the Respondent without specific reasons but the Complainant implied under the third element that the Respondent has used different aliases to register domain names.

As evident from Annex 14 to the Complaint, the Complainant's cease-and-desist letter was sent to premiumdomainseller@[...] and a reply of "get away" was received from this email address. This appears to confirm that the person in control of this email address was also in control of the disputed domain name.

According to Annex 15 to the Complaint, both "PremiumDomainSeller" and "Liuqingru" seem to have a history of abusive domain name registration. However, it does not appear to be clear that "Liuqingru" is

somehow connected to “PremiumDomainSeller” or the email address “premiumdomainseller@[...]”.

Annex 16 to the Complaint indeed shows “Angela Collins” has used another alias to register a different domain name using the same email address domainnamesusa@[...]. However, there is no evidence that “Angela Collins” is somehow connected to “Liuqingru”.

Taking all the above into account, the Panel accepts that the Respondent in this proceeding is “Angela Collins”. It is unclear whether this is the name of a real person or it is an alias used by the person in control of the disputed domain name.

6.2 Substantive Issues

Pursuant to the Policy, paragraph 4(a), the Complainant must prove each of the following to justify the transfer of the disputed domain name:

- (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 Respondent has registered and is using the disputed domain name in bad faith.

In this case, the Center has employed the required measures to achieve actual notice of the Complaint to the Respondent, in compliance with the Rules, paragraph 2(a), and the Respondent was given a fair opportunity to present his/her case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: “[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain-name holder) to retain registration and use of the disputed domain name [...]”.

The Respondent however did not respond to the statements and allegations contained in the Complaint.

A. Identical or Confusingly Similar

The Complainant has provided evidence that it is the owner of the WOLFSPEED trademark. Therefore, the Panel is satisfied that the Complainant has established its rights in the WOLFSPEED trademark for the purposes of the present proceeding.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the Top-Level Domain (“TLD”) section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)). The Panel sees no reason not to follow the same approach here, so it will disregard the “.xyz” TLD section of the disputed domain name for the purposes of its comparison to the Complainant’s trademark.

The disputed domain name reproduces the WOLFSPEED trademark in its entirety without the addition of any other elements. Therefore, the Panel finds that the disputed domain name is identical to the WOLFSPEED trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, because it has not authorized it to use the WOLFSPEED trademark and there is no relationship between the Parties. The Complainant submits that the disputed domain name is offered for sale to the public at the price of USD 1,450 and contends that the Respondent has registered it to resell it to the Complainant at a significant price. The Complainant has thus established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not submitted a Response or disputed the contentions of the Complainant.

The disputed domain name is identical to the WOLFSPEED trademark, and the Respondent has not submitted any explanation how the disputed domain name could be used for some legitimate activity unrelated to the Complainant's WOLFSPEED trademark. It therefore appears as more likely than not that the Respondent has registered the disputed domain name with knowledge of this trademark and targeted it when registering the disputed domain name. The Respondent then publicly offered it for sale for USD 1,450, therefore, the Panel, in the absence of contrary evidence, considers it as being in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name. This use of the disputed domain name does not appear as a legitimate activity giving rise to rights or legitimate interests in the disputed domain name.

Moreover, the nature of the disputed domain name, being identical to the Complainant's WOLFSPEED trademark, is inherently misleading and carries a high risk of an implied affiliation (see section 2.5.1 of the [WIPO Overview 3.0](#)).

This is sufficient for the Panel to reach the conclusion that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The disputed domain name is identical to the WOLFSPEED trademark and the Respondent does not provide any plausible explanation for his/her registration and intended use. The evidence shows that the disputed

domain name is being offered for sale for USD 1,450. In the absence of any contrary evidence, the amount of USD 1,450 may be regarded as a valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name.

In view of the above, the Panel concludes that it is more likely than not that the Respondent has registered and used the disputed domain name primarily for the purpose of selling it to the Complainant who is the owner of the WOLFSPEED trademark or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name.

The Panel also notes that the Respondent or through its alias has registered other domain names, which appear to have incorporated third party trademarks, and have offered these domain names for sale, all at the price of USD 1,450.

Therefore, the Panel finds that the disputed domain name has been registered and used in bad faith.

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 <wolfspeed.xyz> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: December 6, 2022