

ADMINISTRATIVE PANEL DECISION

The Chemours Company FC, LLC v. Elford Jarrett, Teflon Trucking LLC
Case No. D2022-4513

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 Elford Jarrett, Teflon Trucking LLC, United States.

2. The Domain Name and Registrar

The disputed domain name <teflontrucking.com> (the “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 November 28, 2022. On November 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 29, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint (Registration Private, Domains By Proxy, LLC). The Center sent an email to Complainant on December 6, 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 December 8, 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 December 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 29, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 5, 2023.

The Center appointed Robert A. Badgley as the sole panelist in this matter on January 13, 2023. 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.

On January 13, 2023, the Center received an email from Respondent.

4. Factual Background

Complainant is a 2015 spin-off company of E.I. du Pont de Nemours (“DuPont”), a major chemical manufacturer for nearly a century. In 1938, DuPont discovered the chemical compound Polytetrafluoroethylene (“PTFE”), which Complainant describes as a “synthetic Fluoropolymer” with “numerous applications”. In 1946, DuPont coined the word TEFLON and registered it as a trademark with the United States Patent and Trademark Office (“USPTO”), USPTO Reg. No. 418,698 registered on January 8, 1946.

Today, Complainant holds the TEFLON trademark registration in scores of countries around the world. The TEFLON mark, used for decades in connection with DuPont’s myriad products featuring a non-stick surface, enjoys considerable fame. Complainant alleges that the TEFLON coatings are currently used on “products ranging from cookware, apparel, automotive, home and garden, eyeglass lenses to wires and cables”.

On June 13, 1997, DuPont registered the domain name <teflon.com> and used it as a commercial website. Complainant holds and uses that domain name today, and holds dozens of other domain names containing the TEFLON mark.

The Domain Name was registered on August 18, 2020. The Domain Name currently resolves to a parking page with hyperlinks including “Logistics Transportation”, “Freight Shipping Services”, and “Logistics Company”.

According to a screenshot annexed to the Complaint, however, as of June 17, 2022, the Domain Name resolves to a website apparently advertising services under the company name “Teflon Trucking, LLC”. The precise scope of the services purportedly offered by Respondent is not altogether clear from the website, and the photos posted at the site. There is a photo of a panel van bearing the stylized text “Teflon Trucking, LLC”. Complainant annexed a November 28, 2022 Instagram screenshot for the Teflon Trucking page, which appears to indicate that Respondent claims to be in the business of freight delivery.

Respondent did not file a Response in this proceeding to describe its business, its reason for adopting its company name, its reason for registering the Domain Name, and so forth.

On June 21, 2022, Complainant’s counsel sent a cease-and-desist letter to Respondent (the contents of which were unhelpfully redacted by Complainant). On July 13, 2022, Respondent sent the following email to Complainant’s counsel:

“There is a clear distinction between my ‘Trucking Company’. I will not transfer my domain name over to you. If it’s that important to you then you can compensate me for the domain name.”

5. Parties’ Contentions

A. Complainant

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Name.

B. Respondent

On January 13, 2023, the Center received an email from Respondent, stating: “Hello I keep receiving email from you guys can I get clarification on what’s this about?” Aside from the above-noted response to the cease-and-desist letter, Respondent did not otherwise reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark TEFLON through widespread and longstanding registration and use demonstrated in the record.

The Panel also concludes that the Domain Name is confusingly similar to that mark.

The addition of the word “trucking” to the distinctive and fanciful trademark does nothing to avoid such finding, since the entirety of the mark – TEFLON – is reproduced in the Domain Name, and is clearly recognizable therein.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent did not formally respond to the Complaint in this proceeding, and hence did not explain his motivation *vis-à-vis* the Domain Name. Although it appears from the evidence presented that Respondent may be operating a legitimate freight delivery company, he has presented no explanation why he chose to use the word “Teflon” in his company name and in the Domain Name. The mark TEFLON is fanciful, *i.e.*, it represents an entirely invented word, and to the Panel’s knowledge the word has no meaning other than as a source identifier for Complainant’s goods. The incorporation of a fanciful and well-known trademark in one’s domain name compels some form of explanation. None has been provided here.

The Panel also notes that Respondent's response to the cease-and-desist letter does little to buttress Respondent's case. He had the opportunity back in July 2022 to spell out his *bona fides*, but he declined to do so. Instead, he merely told Complainant's counsel that Complainant would have to "compensate" him if Complainant wanted the Domain Name. Such a flippant reply is not characteristic of the owner of a legitimate business who owns a domain name truly integral to his perceived business prospects.

Also, the fact that Respondent converted his rudimentary commercial website to a parking page after the cease-and-desist letter is not reflective of a legitimate business practice.

In the Panel's view, and based on this record, Respondent has no rights or legitimate interests in the Domain Name.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section.

On the record here, the Panel finds it highly likely that Respondent targeted Complainant's well-known and distinctive TEFLON trademark when registering the Domain Name. The Panel also finds it more likely than not that Respondent did so in order to attract Internet customers by trading on the renown of the TEFLON trademark. Such conduct runs afoul of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy 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 Domain Name <teflontrucking.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: January 23, 2023