

ADMINISTRATIVE PANEL DECISION

IONTOF GmbH v. Jeon Okhee

Case No. D2023-0606

1. The Parties

The Complainant is IONTOF GmbH, Germany, represented by Harnischmacher Löer Wensing Rechtsanwälte PartG mbB, Germany.

The Respondent is Jeon Okhee, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <iontot.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 9, 2023. On February 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 11, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 the Respondent of the Complaint, and the proceedings commenced on February 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 15, 2023.

On March 17, 2023 the Center sent a copy of the Complaint to the Respondent at an additional email address recorded for the Respondent and provided the Respondent with an extension of time until March 22, 2023 to file a Response. The Respondent again did not submit any response.

The Center appointed Steven A. Maier as the sole panelist in this matter on April 4, 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.

4. Factual Background

The Complainant is a company registered in Germany. It is a manufacturer of instruments for surface analysis, directed in particular to time-of-flight secondary ion mass spectrometry (TOF-SIMS) and high-sensitivity low-energy ion scattering (LEIS).

The Complainant does not claim any relevant registered trademark rights. However, it claims unregistered rights in the name IONTOF by virtue of matters including its registration and use of the domain name <iontof.com> since November 23, 2000.

The disputed domain name was registered on June 28, 2022.

The disputed domain name does not appear to have resolved to any active website.

As further discussed below, the Complainant exhibits evidence that the disputed domain name has been used for the purpose of an email scam intended to mislead customers of the Complainant concerning the Complainant's payment details.

5. Parties' Contentions

A. Complainant

The Complainant states that it was founded in 1989 and has used the name IONTOF since that date, including its use of the domain name <iontof.com> since 2000. The Complainant states that it has operated trading subsidiaries in the United States of America since 2000 and Japan since 2022. It submits that, as a result of these matters, its name IONTOF has acquired distinctiveness worldwide in connection with analytic instruments.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name because it has used the disputed domain name for the purpose of an attempted email fraud as further described below.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It exhibits an email dated June 29, 2022 to an individual employed by a customer of the Complainant. The email purported to come from a genuine employee of the Complainant who had previously had dealings with the customer. The email advised the customer of a change to the Complainant's bank details and enclosed a letter, purportedly on the Complainant's headed letter paper, to that effect.

The Complainant states that, upon its customer informing it of the fraudulent email, the Complainant immediately contacted the Respondent's hosting provider which promptly suspended the disputed domain name.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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 disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant submits that it has obtained unregistered rights in the name IONTOF by virtue of that name having acquired distinctiveness worldwide in the field of analytical instruments. Where a party claims unregistered rights of this nature, it is usual to provide evidence of that party's trading activities under that name, including for example details of turnover and promotional spend, in order to establish an appropriate level of public recognition of the name in question. While such specific evidence is lacking in this regard, the Panel is prepared to accept that the Complainant has acquired some level of unregistered rights in the name IONTOF, in the nature of unregistered trademark rights, by virtue of its commercial presence in Germany and other territories as described.

It is also clear from the Respondent's use of the disputed domain name that the Respondent was aware of the IONTOF name and its use as a signifier of source: see e.g., paragraph 1.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") which states: "The fact that a respondent is shown to have been targeting the complainant's mark... may support the complainant's assertion that its mark has achieved significance as a source identifier."

The disputed domain name is identical to the Complainant's name IONTOF, save for the substitution of the letter "t" for the final letter "f" which does not prevent the Complainant's name from being recognizable within the disputed domain name.

The Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions concerning the fraudulent use of the disputed domain name give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise.

The Panel finds in the circumstances, and also noting the findings as to bad faith below, that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant has provided evidence that the Respondent has used the disputed domain name for the purpose of a fraudulent email scheme, aimed at misleading at least one of the Complainant's customers as to a change in the Complainant's payment details. This clearly amounts to use of the disputed domain name in bad faith, and the Respondent must also be assumed to have registered the disputed domain name for the bad faith purpose for which it has been used.

The Panel therefore finds that the disputed domain name has been registered and is being 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<iontot.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: April 18, 2023