

## **ADMINISTRATIVE PANEL DECISION**

Trojan Battery Company, LLC v. xuxu  
Case No. D2024-0574

### **1. The Parties**

Complainant is Trojan Battery Company, LLC, United States of America (“United States”), represented by Ownership (Greater China) Limited, Hong Kong, China.

Respondent is xuxu, Hong Kong, China

### **2. The Domain Name and Registrar**

The disputed domain name <trojanbattery.vip> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 8, 2024. On February 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 19, 2024, 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 (xuxu lee HONG KONG) and contact information in the Complaint. The Center sent an email communication to Complainant on February 19, 2024, 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 February 20, 2024.

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 February 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2024. Accordingly, the Center notified Respondent’s default on March 15, 2024.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on March 21, 2024. 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 the United States that is active in the deep cycle solar and motive batteries industry, offering a broad range of energy storage solutions.

Complainant has provided evidence that it is the registered owner of various trademarks relating to its company name and brand “Trojan Battery Company”, including, but not limited, to the following:

- Word/device trademark TROJAN BATTERY COMPANY, International Registration (World Intellectual Property Organization), registration number: 1436568, registration date: October 9, 2018, status: active;
- word/device trademark TROJAN BATTERY COMPANY, National US Registration (United States Patent and Trademark Office), registration number: 5951233, registration date: December 31, 2019, status: active;
- Word/device trademark TROJAN BATTERY COMPANY National Chinese Registration (Chinese National Intellectual Property Administration), registration number: 53278409, registration date: January 25, 2021, status: active.

Moreover, Complainant has demonstrated to own and to use, inter alia, since 1999 the domain name <trojanbattery.com> in order to operate Complainant’s official website at “www.trojanbattery.com”, promoting Complainant’s business in the batteries industry.

Respondent, according to the disclosed Whois information for the disputed domain name, is located in Hong Kong, China. The disputed domain name was registered on July 30, 2023. By the time of the rendering of this decision, the disputed domain name resolves to a website at “http://kejishengding.com” stating “expired or does not exist” in Chinese letters. Complainant, however, has demonstrated that, at some point before the filing of the Complaint (e.g., around August 5, 2023), the disputed domain name resolved to a website which copied substantial parts including photos from Complainant’s official website at “www.trojanbattery.com” and showed Complainant’s official TROJAN BATTERY COMPANY logo without any authorization to do so, thereby inducing Internet users into crypto investments.

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

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends to be the world’s leading manufacturer of deep cycle solar and motive batteries with about 750 employees worldwide, and that it has meanwhile built much valuable goodwill and reputation in its TROJAN BATTERY COMPANY trademark.

Complainant submits that the disputed domain name is confusingly similar to Complainant’s TROJAN BATTERY COMPANY trademark, as there are only a few differences between the two which are incapable of distinguishing them from each other. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Respondent’s website at the disputed domain name reproduces Complainant’s TROJAN BATTERY COMPANY trademark and some photos taken

from Complainant's website without authorization to do so, (2) Respondent is not dealing in batteries, but instead is a fraudster using the website at the disputed domain name as a platform for click farming or employment fraud etc., and (3) Complainant is aware of instances of actual confusion between the Parties, caused by Respondent's website at the disputed domain name. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith because (1) Respondent intentionally attempted to attract for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion between the disputed domain name and Complainant's TROJAN BATTERY COMPANY trademark and company name, and (2) Respondent's activities at the disputed domain name are for the purpose of disrupting Complainant's business by misleadingly divert Internet users to Respondent's website instead.

## **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**

First, it is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Complainant has shown rights in respect of the TROJAN BATTERY COMPANY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Such trademark is almost entirely reproduced within the disputed domain name, except for the element "company". Accordingly, the disputed domain name is confusingly similar to Complainant's TROJAN BATTERY COMPANY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel, therefore, finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Second, paragraph 4(c) of the Policy provides a list of circumstances in which the respondent may demonstrate rights or legitimate interests in a disputed domain name.

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

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In particular, Respondent has neither been granted a license nor has it been otherwise authorized by Complainant to use its TROJAN BATTERY COMPANY 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 e.g., the terms "trojan" and/or "battery" on its own. Finally, the disputed domain name resolved at some point in the past (e.g., around August 5, 2023) to an active website which copied substantial parts including photos from Complainant's official website at "www.trojanbattery.com" and showed Complainant's official TROJAN BATTERY COMPANY logo without any authorization to do so, thereby inducing Internet users into crypto investments. Such use of the disputed domain name, therefore, neither qualifies as bona fide nor as legitimate noncommercial or fair within the meaning of paragraph 4(c) of the Policy. In this context, panels have long held that the use of a domain name for illegal activity (here: the unauthorized copying of substantial parts of Complainant's website in order to induce confused Internet users into some allegedly illegal crypto investments) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel, therefore, finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

Finally, the Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The circumstances to this case leave no doubt that Respondent was fully aware of Complainant's batteries business and its rights in the TROJAN BATTERY COMPANY trademark when registering the disputed domain name and that the latter clearly is directed thereto. Moreover, using the disputed domain name to run an active website which copied substantial parts including photos from Complainant's official website at "www.trojanbattery.com" and showed Complainant's official TROJAN BATTERY COMPANY logo without any authorization to do so, thereby inducing Internet users into crypto investments, 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 TROJAN BATTERY COMPANY 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. Again, panels have long held that the use of a domain name for illegal activity (here: the unauthorized copying of substantial parts of Complainant's website in order to induce confused Internet users into some allegedly illegal crypto investments) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In this context, it also carries weight in the eyes of the Panel that Respondent obviously provided incomplete contact information in the Whois register for the disputed domain name, so that the Written Notice on the Notification of Complaint dated February 23, 2024 could not be sent to Respondent by postal courier. This fact at least throws a light on Respondent's behavior which supports the Panel's bad faith finding.

Having reviewed the record, the Panel, therefore, holds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy, so that Complainant has established the third element of the Policy, too.

## **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, <trojanbattery.vip>, be transferred to Complainant.

*/Stephanie G. Hartung/*

**Stephanie G. Hartung**

Sole Panelist

Date: April 3, 2024