

ADMINISTRATIVE PANEL DECISION

Pentair plc v. Dede Samican
Case No. D2024-2210

1. The Parties

The Complainant is Pentair plc, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Dede Samican, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <sta-rite.com> is registered with Gname 277 Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 29, 2024. On May 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 31, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 31, 2024, 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 June 4, 2024.

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 June 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 26, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on July 2, 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 an American water treatment company founded in 1966.

Sta-Rite Industries, LLC or Pentair Flow Technologies, LLC, both wholly owned subsidiaries of the Complainant own a number of registrations for the trademark STA-RITE. Through its subsidiaries, the Complainant is thus the owner of trademark registrations of STA-RITE across various jurisdictions, including: Turkish Registration No. 2002/25292, registered on April 4, 2005, for goods and services in international classes 6, 7, 11, and 35; European Union Registration No. 018471298, registered on September 18, 2021, for goods in international classes 7, and 11, and United States registration No. 978480 registered on February 12, 1974, for goods in international classes 7, 9, and 11.

The Complainant maintains its Internet presence through use of its primary domain name <pentair.com> as well as through its registration and use of various domain names containing the STA-RITE trademark.

The disputed domain name <sta-rite.com> was initially registered on July 14, 2000, by Sta-Rite Industries and transferred to the Complainant in 2004. The disputed domain name was used by the Complainant actively for a website since its creation, until it was inadvertently not renewed. The Respondent registered the disputed domain name on February 13, 2024, and it has been used actively to point to other websites with various content such as online casinos.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's STA-RITE trademark since it incorporates the mark in its entirety.

Furthermore, the Respondent has no rights to or legitimate interests in the disputed domain name. The Respondent is not sponsored by or affiliated with the Complainant in any way, nor has the Complainant given the Respondent permission to use the Complainant's trademarks in any manner, including in domain names. The Respondent is also not commonly known by the disputed domain name nor the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain by misleadingly diverting consumers or to tarnish the Complainant's trademarks.

The Complainant finally contends that the Respondent has registered and is using the disputed domain name in bad faith. The fact that the Respondent registered the disputed domain name shortly after it lapsed and after it had been used by the Complainant for over 20 years thus suggests that the Respondent acted in opportunistic bad faith, just as the use of the disputed domain name to redirect to various third-party websites shows that the Respondent is intentionally attempting to attract Internet users to these websites only to discover that the disputed domain is completely unconnected to that Complainant, which has been held to be evidence of bad faith registration and use by past panels under the UDRP proceedings. The Complainant also contends that the Respondent's initial use of a privacy service to hide its identity serves as further evidence of bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences there from as it considers appropriate.

A. Identical or Confusingly Similar

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.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

B. Rights or Legitimate Interests

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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the 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.

The composition of the disputed domain name carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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.

Given the circumstances of the case, in particular the distinctiveness of the Complainant's trademark STA-RITE, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark. Moreover, the mere registration of a domain name that is identical to a well-known trademark by an unaffiliated entity may by itself create presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1

In the present case, the Panel notes that the Respondent has failed to participate in these proceedings and, that given the distinctive nature of the Complainant's trademark STA-RITE there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name. This is confirmed by the fact that the Respondent has used the disputed domain name to redirect to various third-party websites in a manner that is likely to create confusion for Internet users seeking information on the Complainant and the Complainant's goods and services. In view of the composition of the disputed domain name which has no evident connection with its current use, the Panel considers that the Respondent was likely attempting to take an unfair advantage by profiting from traffic generated by the Complainant's previous use of the disputed domain name (see *Advancer Technologies, LLC v. Hermansyah Hermansyah*, WIPO Case No. [D2023-0009](#)), and further indicates that Respondent's use of the disputed domain name is an attempt to capitalize from the Complainant's mark.

The Panel therefore finds that the Complainant has also established the third element of the Policy.

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 <sta-rite.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: July 24, 2024