

ADMINISTRATIVE PANEL DECISION

Antares Audio Technologies, LLC v. Ruchitha Fernando, Auotune
Case No. D2024-4710

1. The Parties

The Complainant is Antares Audio Technologies, LLC, United States of America (“United States”), represented by Coates IP, United States.

The Respondent is Ruchitha Fernando, Auotune, Sri Lanka.

2. The Domain Name and Registrar

The disputed domain name <auotune.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 14, 2024. On November 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 15, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 15, 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 November 18, 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 November 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 11, 2024. The Response was filed with the Center on November 28, 2024.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on December 23, 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

The Complainant is a corporation headquartered in Santa Cruz, California, United States. The Complainant is a supplier of software, plugins, and hardware for audio and music production. Its products include musical pitch correction software branded AUTO-TUNE which it has sold since 1996. The software uses a proprietary device to measure and correct pitch in music. It operates on different principles from the vocoder or talk box and produces different results.

Numerous famous artists have adopted use of the AUTO-TUNE effect in their music production.

The Complainant is the owner of various registrations for the trademark AUTO-TUNE, including for example:

- United States trademark registration number 2996904 for the word mark AUTO-TUNE, registered on September 20, 2005;
- India trademark registration number 4940175 for the word mark AUTO-TUNE, registered on April 9, 2021.

The Complainant operates a website "www.antarestech.com" using its corporate name "Antares". The Complainant's domain name <autotune.com> was registered on March 28, 1996. This domain redirects to <antarestech.com>, owned also by the Complainant.

The disputed domain name was registered on October 1, 2024. The disputed domain name resolves to a website headed "AUOTUNE" that publishes song lyrics.

5. Parties' Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name is confusingly similar to its trademark.

Furthermore, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Finally, it is argued that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondent submitted an informal Response to the Center on November 28, 2024. The Respondent stated that "I purchased the domain 'autotune.com' because it was available at the time and I intended to use it for legitimate business purposes. At no time have I conducted my business in a manner that would harm any other entity. I have acted in good faith in purchasing and using the domain". The Respondent then offered to transfer the disputed domain name on the condition that the Complainant reimburses him for the acquisition and development cost of USD 750, itemizing some of those costs.

The Center asked the parties about a possible settlement and the Complainant sent an email on December 9, 2024, requesting the case proceed to a decision.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which a complainant must satisfy in order to succeed. The Complainant must satisfy 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

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 Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark. [WIPO Overview 3.0](#), section 1.9.

The disputed domain name <autotune.com> is a typosquatted version of the trademark AUTO-TUNE of the Complainant since the term "autotune" is an obvious misspelling of the Complainant trademark AUTO-TUNE with the omission of the hyphen "-" and the letter "t" between the "u" and the "o".

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 relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel has concluded above that the disputed domain name is a misspelling of the Complainant trademark and thus a typosquatting case. Accordingly, the Panel finds it more plausible that the disputed domain name was registered as a reference to the Complainant's trademark AUTO-TUNE, i.e., to trade off the Complainant's trademark rights. The Respondent's vague and unsupported claims that it intended to use the disputed domain name "for legitimate business purposes", are insufficient to rebut the Complainant's prima facie case for the purposes of the Policy, especially considering the composition of the disputed domain name. The composition of the disputed domain name, comprising the Complainant's trademarks in a misspelling variation, together with the content of the website at the disputed domain name carries a risk of Internet user confusion.

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.

In the present case, the Panel notes that:

- The Complainant started using the trademark AUTO-TUNE in 1996.
- The Complainant's trademark is widely known (*Antares Audio Technologies, LLC v. Komalpreet Singh*, WIPO Case No. [DCO2022-0097](#)).
- The Respondent registered the disputed domain name on October 1, 2024. This is twenty eight (28) years after the Complainant started using the term "AUTO-TUNE" to designate its leading product and nearly twenty (20) years after the trademark registration.
- The Complainant is in the music business, and the disputed domain name resolves to a website whose content is also related to the music industry.
- As stated above, the use of a domain name containing the Complainant's trademark with a misspelling constitutes typosquatting which is evidence of bad faith.
- The Respondent has not provided any logical explanation on the choice of the disputed domain name.

Based on all these elements, the Panel concludes that the Respondent's conduct qualifies as bad faith under paragraph 4(b)(iv) of the Policy in that the Respondent's use of the disputed domain name attempts to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

The Panel finds that the Complainant has 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 <autune.com> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: January 6, 2025