

ADMINISTRATIVE PANEL DECISION

Acer Incorporated v. Zhonghui Guo, PCs Aid
Case No. D2024-4760

1. The Parties

The Complainant is Acer Incorporated, Taiwan Province of China, represented by COHAUSZ & FLORACK Patent- und Rechtsanwälte Partnerschaftsgesellschaft mbB, Germany.

The Respondent is Zhonghui Guo, PCs Aid, China.

2. The Domain Name and Registrar

The disputed domain name <acer.parts> 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 19, 2024. On November 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 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 (Unknown Respondent / Redated 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 20, 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 22, 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 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 27, 2024.

The Center appointed James Wang as the sole panelist in this matter on January 8, 2025. 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 based in Taiwan Province of China that produces computer hardware and electronics.

The Complainant is the registrant of ACER trademark registrations in different jurisdictions, including but not limited to:

- International Trademark Reg. No. 516344, registered on October 6, 1987;
- European Union Trade Mark Reg. No. 000653691, registered on September 27, 1999; and
- European Union Trade Mark Reg. No. 018081202, registered on November 5, 2019.

The Complainant claims that its ACER trademark enjoys substantial worldwide recognition and fame.

The disputed domain name was registered on November 6, 2020. The disputed domain name does not resolve to an active webpage.

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 identical or confusingly similar to the ACER trademark in which the Complainant has rights. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove 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 has provided evidence that it is the registrant of numerous ACER trademark registrations across different jurisdictions.

The entirety of the ACER 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The applicable Top-Level Domain ("TLD") in a domain name (here, ".parts") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. The meaning of such TLD may however be relevant to panel assessment of the second and third elements. [WIPO Overview 3.0](#), sections 1.11.1 and 1.11.2.

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

B. Rights or Legitimate Interests

Proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. 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.

According to the Complainant, the Respondent is not affiliated with the Complainant and has never been licensed or authorized to use the Complainant's mark ACER or register or use the disputed domain name.

The Respondent submitted no response or evidence to rebut the allegations of the Complainant.

Further to section 2.5.1 of the WPO Overview 3.0, the Panel notes that the TLD used here is in the category of additional terms which may or may not trigger an inference of affiliation, therefore requiring a further examination of the facts and circumstances beyond the TLD to assess potential respondent rights or legitimate interests. In this regard, while resellers and distributors may have limited rights to use a complainant's trademark for its source-identifying function, such fair use is qualified under the so-called "Oki Data" test enshrined in section 2.8.1 of the [WIPO Overview 3.0](#). Here, however, there is no active website at the disputed domain name. The Panel has further ascertained through its independent research¹, that the disputed domain name had previously resolved to a website offering spare parts of the Complainant's products, and, seemingly, third-party products. The lack of any authorization by the Complainant and similarly, the lack of any information as to the website's lack of authorization or relation to the Complainant renders any fair use safe haven inapplicable in this instance. See section 2.8 of the [WIPO Overview 3.0](#).

Irrespective of the disputed domain name satisfying the so-called "Oki Data" test, the identical nature of the disputed domain name to the Complainant's trademark carries a high risk of implied affiliation, and as such cannot constitute fair use. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel finds that the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests, and the Respondent failed to come forward with evidence demonstrating rights or

¹ Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. [WIPO Overview 3.0](#), section 4.8.

legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

The Complainant has provided evidence that its ACER trademark has been registered across different jurisdictions, among which the International Trademark Reg. No. 516344 was registered as early as on October 6, 1987.

Given the long history of the Complainant's ACER trademark registration and the alleged worldwide recognition and fame the trademark enjoys, it is unlikely that the Respondent registered the identical disputed domain name without knowledge of the Complainant's ACER trademark at the time of the registration. The Panel therefore agrees with the Complainant's contention that the disputed domain name was registered in bad faith.

The Panel notes that the disputed domain name does not resolve to an active webpage. Under the doctrine of passive holding, the Respondent's current non-use of the disputed domain name will not prevent a finding of bad faith under the circumstances of this case. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <acer.parts> be transferred to the Complainant.

/James Wang/

James Wang

Sole Panelist

Date: January 22, 2025