

## ADMINISTRATIVE PANEL DECISION

Etsy, Inc. v. Shon RH  
Case No. D2024-4976

### 1. The Parties

The Complainant is Etsy, Inc., United States of America ("United States"), represented by Fross Zelnick Lehrman & Zissu, PC, United States.

The Respondent is Shon RH, United States.

### 2. The Domain Name and Registrar

The disputed domain name <etsyautomations.com> is registered with Squarespace Domains LLC (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 2, 2024. On December 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 3, 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 December 4, 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 December 6, 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 December 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent's default on January 6, 2025. On January 8 and January 16, 2025, the Respondent sent email communications to the Center requesting that

the disputed domain name be transferred to the Complainant. On January 9, 2025, the Center informed the Parties of the possibility of settlement of the proceedings. On January 16, 2025, the Complainant informed the Center that it wished to have the matter proceed to a decision.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on January 22, 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 an online goods marketplace established in New York, United States, and operating under the ETSY mark since commencing operations in 2005. The Complainant is the proprietor of numerous trademark registrations around the world including the following:

- United States Trademark Registration No. 3180068 for ETSY (word mark), registered on December 5, 2006, for services in class 35;
- United States Trademark Registration No. 5774210 for **Etsy** (device mark), registered on June 11, 2019, for goods in class 9, claiming first use in 2013;
- International Trademark No. 912704 for ETSY (word mark), registered on August 2, 2006, for services in class 35.

The disputed domain name was registered on January 9, 2023. At the time of the Complaint and of this Decision, it resolves to a website stating “Etsy Automations. Start Your Automated Passive Income Store Today.” The website displays graphs listing “Sales Channels” among them Etsy. The website states: “How it works. We create a sleek and custom Automated Etsy store that is optimized to turn visitors into paying customers” and invites visitors to purchase packages of services. The website includes a notice disclaiming responsibility for sales results.

On September 25, 2024, the Complainant sent a cease-and-desist letter to the Respondent. The record does not reflect the Respondent’s response thereto.

#### **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 its Etsy platform is one of the most popular websites in the world, at any one time containing over 100 million listings for products for sale. Due to the Complainant’s investment in its marks, the ETSY marks, which have been used for nearly two decades, are well known and famous in numerous parts of the world. The disputed domain name contains this mark together with the term “automations,” which describes the Respondent’s services. The Respondent’s website promotes a service through which the Respondent operates stores on the Complainant’s platform on behalf of third parties, which then have no involvement in the operation of these stores. Such activities contravene the Terms of Service published on the Complainant’s website. The Respondent’s website features the Complainant’s word mark and a close copy of its orange device mark. The Respondent is not associated with the Complainant in any way and its website does not disclaim this lack of a relationship. The Respondent registered the disputed domain name using false or incomplete contact information and did not respond to the Complainant’s cease-and-desist letter.

## **B. Respondent**

The Respondent did not provide a formal Response to the Complainant's contentions. On January 8 and January 16, 2025, the Respondent sent emails to the Center requesting that the disputed domain name be transferred to the Complainant and that the proceedings be terminated.

## **6. Discussion and Findings**

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (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 Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

### **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 Complainant’s ETSY mark is reproduced 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.

Although the addition of other terms (here, “automations”) may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

There is no evidence that the Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish the Respondent's rights therein. The disputed domain name consists of the Complainant's registered ETSY mark, adding "automations," referring to the nature of the Respondent's alleged services targeting sellers on the Complainant's platform. The Panel finds that such composition indicates targeting of the Complainant.

The disputed domain name resolves to a website on which the Respondent offers services for Etsy store owners. For this reason, the Panel considered whether the Respondent could be considered as engaging in nominative (fair) use as a reseller or distributor of the Complainant's services (or services related to the Complainant's), which would support a finding of rights or legitimate interests. Having reviewed the record and the Respondent's active website, however, the Panel concludes that such a finding is not supported. The Panel notes that the Respondent's website features the Complainant's mark and refers to the Etsy platform but fails to disclaim the lack of a relationship with the Complainant. Rather, the Respondent claims to offer users "ecommerce success with your own cutting edge, automated, passive income Etsy store managed by our team." Moreover, the disputed domain name itself does not make it clear that it is not operated or authorized by the Complainant. Therefore, the Respondent's services do not represent a bona fide offering related to the Complainant's goods or services. The Panel therefore finds that the Respondent did not engage in fair use. [WIPO Overview 3.0](#), section 2.8

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 disputed domain name reflects the Complainant's well-established ETSY mark in its entirety, together with a descriptive term related to the Respondent's alleged services aimed at the users of the Complainant's Etsy platform. The Complainant had established trademark rights more than 15 years prior to the registration of the disputed domain name. Under these circumstances, the Panel finds that the Respondent registered the disputed domain name, having the Complainant's mark in mind. [WIPO Overview 3.0](#), section 3.1.

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 this case, the Panel finds that the disputed domain name was used to resolve to a website featuring the Complainant's word and device mark that offered services aimed at sellers using the Complainant's platform. The Respondent's website fails to disclose that it is unrelated to the Complainant. The Panel finds such conduct is indicative of bad faith. Considering these circumstances, and having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. [WIPO Overview 3.0](#), section 3.1.1.

## **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 <etsyautomations.com> be transferred to the Complainant.

*/Ingrīda Kariņa-Bērziņa/*

**Ingrīda Kariņa-Bērziņa**

**Sole Panelist**

Date: February 5, 2025