

ADMINISTRATIVE PANEL DECISION

Tortu B.V. v. Becky Lopez, Becky Lopez

Case No. D2025-0072

1. The Parties

The Complainant is Tortu B.V., Netherlands (Kingdom of the), represented by Ploum, Netherlands (Kingdom of the).

The Respondent is Becky Lopez, Becky Lopez, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <tortuworld.shop> (the "Disputed Domain Name") is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 9, 2025. On January 9, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 10, 2025, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 10, 2025, 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 amendment to the Complaint on January 10, 2025.

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 the Respondent of the Complaint, and the proceedings commenced on January 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 3, 2025.

The Center appointed Mariia Koval as the sole panelist in this matter on February 6, 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 Dutch company with over 12 years of expertise in the field of interior design, with a particular focus on luxury bathroom concepts. The Complainant is actively involved in the design and production of high-end bathroom furniture, which it markets and sells under various brands, including its signature brand, TORTU (the "TORTU Trademark"). In addition to manufacturing exclusive bathroom furnishings, the Complainant specializes in creating bespoke luxury bathroom designs tailored to its clients' specific needs.

The Complainant owns the following TORTU Trademark registrations:

- Benelux Trademark Registration No. 919806, registered on August 10, 2012, in respect of goods and services in classes 11, 21 and 37; and
- European Union Trademark Registration No. 018331695, registered on June 10, 2021, in respect of goods in classes 11, 19, 20 and 37.

The Complainant operates the domain name <tortuworld.com>, reflecting its TORTU Trademark for promotion of its products and services. The Complainant has also made substantial investments to develop a strong presence online by being active on various social media platforms, using the name "TORTUWORLD", including Facebook, Instagram, LinkedIn and Pinterest.

The Disputed Domain Name was registered on September 30, 2024. As at the date of this Decision, the Disputed Domain Name resolves to an inactive website. However, according to the evidence presented by the Complainant (Annex 7 to the Complaint), the Disputed Domain Name previously resolved to a commercial website allegedly engaged in the marketing and sale of bathroom furniture and other related installations under the Complainant's TORTU Trademark. Moreover, in its online product listings, the Respondent has directly replicated the Complainant's copyrighted works by copying product images, names, and descriptions in an identical manner, that mimics the overall look and feel of the Complainant's official website "www.tortuworld.com".

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 its TORTU Trademark since the Disputed Domain Name includes the TORTU Trademark in its entirety with addition of the descriptive term "world". The combination of the TORTU Trademark with the descriptive term "world" only further enhances the confusion, whereas the Complainant operates its official website at "www.tortuworld.com". In addition to this, the social media pages of the Complainant also carry the name "TORTUWORLD". Lastly, the Complainant has established a new Intellectual Property Holding for its company which uses the trade name Tortu World B.V.

The Complainant further asserts that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name in view of the following:

- to the best of the Complainant's knowledge and belief, the Respondent is not commonly known under the names "tortu" or "tortuworld", or any other variation thereof, nor has the Respondent acquired any trademark or service mark rights;
- the Respondent is not affiliated with the Complainant and the Complainant has not licensed or otherwise permitted the Respondent to use the TORTU Trademark or to register the Disputed Domain Name;
- the Respondent cannot claim prior rights or legitimate interests in the Disputed Domain Name, whereas the TORTU Trademark precedes the registration of the Disputed Domain Name for many years;
- the use of the Disputed Domain Name and/or the TORTU Trademark by the Respondent can in no event lead to a legitimate interest for the Respondent, whereas the Respondent does not make demonstratable use of the Disputed Domain Name in connection with a bona fide offering of goods and services;
- the Complaint highly doubts whether the Respondent is in fact selling TORTU branded products on the website under the Disputed Domain Name;
- the Respondent uses the TORTU Trademark and the TortuWorld trade name prominently on the website under the Disputed Domain Name, whilst it is not accurately and prominently disclosed the Respondent's relationship with the Complainant on the Respondent's website. This makes it unclear for the Internet users visiting the Respondent's website whether this website is operated by the Complainant or not;
- the Respondent chose the Disputed Domain Name, which is clearly mimicking the TORTU Trademark, the TortuWorld trade name and the official website of the Complainant;
- neither the pages "about us", the Privacy Policy, the Refund and Returns Policy and "contact us" nor do any of the hyperlinks to the social media pages on the Respondent's website work.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name in view of the following. Due to the fact that the TORTU Trademark has gained considerable recognition over the years, the fact that the TORTU Trademark is highly distinctive and given the Disputed Domain Name is confusingly similar to the TORTU Trademark (as well as the TortuWorld trade name and the Complainant's official website "www.tortuworld.com"), the Respondent must have been aware of the Complainant and its TORTU Trademark, as well as the goodwill associated with it, when registering the Disputed Domain Name.

Moreover, the Respondent's familiarity with the TORTU Trademark and the Complainant's business, also follows from the fact that the contents of the Respondent's website clearly reflect the Complainant's products, the TORTU Trademark and the overall look and feel of the Complainant's official website, providing detailed information on the Complainant's products using the Complainant's copyrighted works. After all, the Respondent has copied the Complainant's online offers and uses Complainant's product photos, product names and product descriptions. At the same time the Respondent's website does not (prominently nor accurately) disclose its (non-existing) relationship with the Complainant.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant to succeed must satisfy the panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which 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 was 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 Disputed Domain Name completely reproduces the Complainant's TORTU Trademark in combination with the word "world" and the generic Top-Level Domain ("gTLD") ".shop". According to the [WIPO Overview 3.0](#), section 1.8, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The addition of the term "world" to the TORTU Trademark does not prevent a finding of confusing similarity.

Also, in accordance with [WIPO Overview 3.0](#), section 1.11.1, the applicable gTLD in a domain name (such as, ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Pursuant to [WIPO Overview 3.0](#), section 1.7, in cases where a domain name incorporates the entirety of a trademark, the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing.

Accordingly, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's TORTU Trademark pursuant to paragraph 4(a)(i) of the Policy.

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 Panel concludes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's TORTU Trademark. Moreover, there is no element from which the Panel could infer the Respondent's rights over the Disputed Domain Name, or that the Respondent might be commonly known by the Disputed Domain Name.

The Panel is of the opinion that there is no evidence that the Respondent is using the Disputed Domain Name to offer bona fide goods or services or making a legitimate noncommercial or fair use. On the contrary, as at the date of filing of the Complaint the Disputed Domain Name resolved to the website which offered different bathroom furniture and installations under the TORTU Trademark. According to the Complainant there is a doubt that the offered products under the TORTU Trademark on the Respondent's website were genuine. Moreover, the Respondent's website had the same look and feel as the Complainant's official website with use of the Complainant's TORTU Trademark. According to the [WIPO Overview 3.0](#), section 2.8.1, UDRP panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Ok! Data test", the following cumulative requirements will be applied to the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

As is seen from the circumstances of this case, the website under the Disputed Domain Name does not disclose any relationship between the Complainant and the Respondent. The whole design of the Respondent's website creates a false impression that this website is one of the Complainant's official websites or related to the Complainant. Thus, the Respondent does not satisfy the conditions of the Ok! Data test.

Moreover, in accordance with the [WIPO Overview 3.0](#), section 2.5.1, where a domain name consists of a trademark plus an additional term (at the second or Top-Level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. The fact that the Respondent has incorporated the Complainant's TORTU Trademark in its entirety in the Disputed Domain Name with the addition of the word "world", which the Complainant also uses in its business activity and official website, to the Complainant's TORTU Trademark in the Disputed Domain Name, is further evidence, that the Respondent was well aware of the Complainant's TORTU Trademark and business at the time of registration of the Disputed Domain Name and has done so for the only purpose of creating an impression that the Disputed Domain Name is connected with the Complainant's TORTU Trademark.

In light of the above, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name. Therefore, the second element of the paragraph 4(a) of the Policy has been met by the Complainant.

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 Respondent registered and is using the Disputed Domain Name in bad faith in view of the following. The Complainant obtained the registration of the TORTU Trademark at least 12 years earlier than the Respondent registered the Disputed Domain Name. Taking into account all circumstances of this case, the Panel finds that the Respondent was well aware of the Complainant's business and its TORTU Trademark when registering the confusingly similar Disputed Domain Name that

completely incorporates the Complainant's TORTU Trademark. The Panel considers it in bad faith that the Respondent deliberately chose the Disputed Domain Name to create a likelihood of confusion with the Complainant's TORTU Trademark, so as to create a false association or affiliation with the Complainant.

Moreover, the Respondent's knowledge of the Complainant's TORTU Trademark is also supported by the previous use of the Disputed Domain Name for the website, where products, allegedly fake ones, under the TORTU Trademark were purportedly offered for sale. Moreover, the website under the Disputed Domain Name contained the Complainant's copyrighted product images. In view of the fact that the Disputed Domain Name consists of the Complainant's name and word "world", both used by the Complainant's for its official website and social webpages and as a trade name, as well as the Disputed Domain Name previously resolved to the website displaying the Complainant's TORTU Trademark, Internet users would most likely be misled into believing that the Disputed Domain Name is related to or authorized by the Complainant.

Furthermore, the Disputed Domain Name, reproducing the Complainant's TORTU Trademark in its entirety, is evidently deceptive for Internet users. The Respondent obviously chose to register the Disputed Domain Name, which is confusingly similar to the Complainant's TORTU Trademark, for the purpose of attracting 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 and of the products sold on it.

The Disputed Domain Name currently resolves to an inactive website. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the current non-use of the Disputed Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding.

The Panel is also of the opinion that it is clear that the Respondent, having registered and used the Disputed Domain Name, which is confusingly similar to the Complainant's TORTU Trademark, to purportedly sell the Complainant's, allegedly fake, products, as well as to apparently harvest the personal/financial data from the Internet users, intended to disrupt the Complainant's business and confuse Internet users seeking or expecting the Complainant's website. In view of the absence of any evidence to the contrary and the fact that the Respondent did not file any response to claim otherwise, the Panel concludes that the Respondent has registered and is using the Disputed Domain Name in bad faith.

In light of the above, the Panel finds the third element of the Policy has been established.

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 <tortuworld.shop> be transferred to the Complainant.

/Mariia Koval/

Mariia Koval

Sole Panelist

Date: February 17, 2025