

ADMINISTRATIVE PANEL DECISION

Radiohead Trademark Limited v. Nano Techan
Case No. D2025-0185

1. The Parties

The Complainant is Radiohead Trademark Limited, United Kingdom, represented by Clintons, United Kingdom.

The Respondent is Nano Techan, Nigeria.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 17, 2025. On January 17, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 17, 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 (RADIOHEAD SHOP) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 20, 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 24, 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 27, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 16, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 17, 2025.

The Center appointed Nicholas Weston as the sole panelist in this matter on February 19, 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 incorporated in the United Kingdom ("UK") on July 24, 1997, that owns several trade marks associated with a band that has enjoyed global popular success since 1993 under the name "Radiohead". The Complainant cites its registrations for the trademark RADIOHEAD and variations of it in several countries, including, for example, UK trademark no. UK00900331256 for the word mark RADIOHEAD registered on December 3, 2003, and United States of America trade mark No. 2160170 for the word mark RADIOHEAD registered on May 26, 1998.

The band's official merchandise website can be found at the domain name <wasteheadquarters.com>

The Disputed Domain Name was registered on April 11, 2023, and is used to offer for sale unauthorized merchandise from a website that claims to be "the OFFICIAL Merchandise Store for Radiohead fans".

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 cites its trademark registrations in a number of jurisdictions for the mark RADIOHEAD, as prima facie evidence of ownership.

The Complainant submits that its rights in the mark RADIOHEAD predate the Respondent's registration of the Disputed Domain Name. It submits that the Disputed Domain Name is confusingly similar to its trademark, because the Disputed Domain Name is comprised of the dominant part of the RADIOHEAD trademark and that the addition of the word "shop" is not sufficient to avoid the confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because "[n]either the Complainant, nor the Band, have any connection to the Respondent, nor have either given any consent to the sale of the Infringing Merchandise sold through the Disputed Domain Name" and infers that none of the circumstances set out in paragraph 4(c) of the Policy apply.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules having regard to evidence that points to knowledge of the Complainant and its trademarks, and, it submits that "[t]he mere registration of the Disputed Domain Name, being identical to the Trade Marks and embodying the Name, which is globally famous and synonymous with the Band, by itself creates a presumption of bad faith registration and use by the Respondent. The addition of "shop", a descriptive term of the commercial activities conducted under the Disputed Domain Name, compounds this presumption of a bad faith registration." On the issue of use, the Complainant contends that "[t]he Respondent has targeted the Band, through the rights owned by the Complainant, to take commercial advantage of the Band's legitimate Merchandising Activities".

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name 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 Disputed Domain Name; and
- (iii) that 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 Panel finds that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any jurisdiction. [WIPO Overview 3.0](#), section 1.2.1. The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark RADIOHEAD.

Turning to whether the Disputed Domain Name is identical or confusingly similar to the RADIOHEAD trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant's trademark RADIOHEAD; (b) followed by the word "shop"; followed by the Top-Level-Domain ("TLD") ".com".

It is well established that the TLD used as part of a domain name is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11. The relevant comparison to be made is with the second-level portion of the Disputed Domain Name, specifically: "radioheadshop".

The Panel finds the mark is recognizable within the Disputed Domain Name. Accordingly, the Panel finds that the Disputed Domain Name is confusingly similar 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 Disputed 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 notes that the Complainant has not licensed or otherwise authorized the Respondent to use its trademarks and that there is no relationship between the Complainant and the Respondent, let alone any accurate or prominent disclosure of that relationship, or absence of such, on its website. The use of the Complainant's trademark on the Respondent's website demonstrates that the Respondent is actually aware of the Complainant's trademark. The Panel finds that the Respondent's activities do not represent a bona fide offering of goods or services, or a legitimate noncommercial or fair use, given the substantial reputation and goodwill of the Complainant's mark or capacity to otherwise mislead Internet users.

The general right to operate a fan site does not necessarily extend to registering or using a domain name that is identical to the complainant's trade mark, particularly as the domain name may be misunderstood by Internet users as being somehow sponsored or endorsed by the trade mark owner. Nor would a domain name such as in the present case with the additional term "shop", which moreover purports to be an official site when it is not, support a claim to rights or legitimate interests. The fact that the Respondent's website is commercial in nature, further contends against a finding of fair use. [WIPO Overview 3.0](#), section 2.7.

Panels have held that the use of a domain name for illegal activity such as phishing, impersonation, passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

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 finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Name and the Complainant's distinctive trademark, the Panel is satisfied that the Respondent deliberately targeted the Complainant's trademark RADIOHEAD when it registered the Disputed Domain Name.

This Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Name other than to trade off the reputation and goodwill of the Complainant's trademark. [WIPO Overview 3.0](#), section 3.1.4.

On the issue of use, the Complainant's evidence is that the Disputed Domain Name was used to host a website that claims to be the Complainant's legitimate merchandise website, displaying text that states: "Radiohead Merch & Clothing - Radiohead Merchandise Store is the OFFICIAL Merchandise Store for Radiohead fans."

Panels have held that the use of a domain name for unlawful activity here, alleged impersonation or passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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 <radioheadshop.com> be transferred to the Complainant.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: February 25, 2025