

## **ADMINISTRATIVE PANEL DECISION**

Electronic Arts Inc. v. Huy Hoang  
Case No. D2025-0281

### **1. The Parties**

The Complainant is Electronic Arts Inc., United States of America ("United States"), represented by Norton Rose Fulbright US LLP, United States.

The Respondent is Huy Hoang, Viet Nam.

### **2. The Domain Name and Registrar**

The disputed domain name <thesimsmerch.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 January 24, 2025. On January 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 24, 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 (The Sims Merch) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 27, 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 31, 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 February 3, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 23, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 3, 2025.

The Center appointed Alexandre Nappey as the sole panelist in this matter on March 5, 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 Electronic Arts Inc., an American video game company. It owns several United States and international trademarks THE SIMS which it uses in connection with goods and services related to computer games and related merchandise, among which:

- United States trademark THE SIMS, registered under number 3990282 on July 5, 2011, for goods and services in classes 9, 16, 25, 35, 38, and 41, duly renewed.

The Complainant is also the owner of the following domain names:

- <sims.com> registered since January 1994;
- <thesims.com> registered since January 1998;
- <thesimsstore.com> registered since June 2008.

The disputed domain name <thesimsmerch.com> was registered on January 7, 2024.

The disputed domain name has been used to operate a website offering toys, clothing, and other merchandise incorporating the Complainant's THE SIMS trademarks. It is currently not active anymore.

#### **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 <thesimsmerch.com> is confusingly similar to its earlier trademark THE SIMS, to the point of creating confusion.

Indeed, the Respondent has merely added the generic and descriptive word "merch" (short for "merchandise") to the Complainant's THE SIMS mark. The addition of "merch" does nothing to distinguish the disputed domain name from the Complainant's THE SIMS mark. This does nothing to distance the Respondent from the Complainant's THE SIMS mark and is particularly confusing because the word also describes the Complainant's merchandise goods, which it makes available at "www.shopthesims.com".

Then, the Complainant contends that the Respondent has no rights or legitimate interests to use the disputed domain name.

The Respondent has no rights or legitimate interests in the term "thesimsmerch.com" and the corresponding disputed domain name. Rather, the Respondent is trading off the goodwill created by the Complainant in its THE SIMS mark. The Respondent registered the disputed domain name in January 2024, approximately 25 years after the Complainant's first use of THE SIMS mark, and there is no evidence that the Respondent was commonly known as THE SIMS or had any use of THE SIMS MERCH prior to registering the disputed domain name.

Further, the Complainant has not authorized the Respondent to use its THE SIMS mark or family of THE SIMS marks.

Additionally, the Respondent does not appear to own any trademark application or registration containing the term “the sims” or “the sims merch” for any goods or services, let alone for online retail service.

Finally, the Respondent is not an authorized licensee of the Complainant.

Third, the Complainant claims that the disputed domain name was registered and is being used in bad faith.

The Respondent is intentionally attempting to attract Internet users to its site for the Respondent’s own gain by creating a likelihood of confusion between the disputed domain name and the Complainant’s THE SIMS trademark in furtherance of its sale of infringing goods bearing the Complainant’s THE SIMS mark.

The only reason that the Respondent registered the disputed domain name was due to the fact that it contained the Complainant’s well-known THE SIMS trademark.

The Respondent registered the disputed domain name to trade off the Complainant’s well-established THE SIMS trademarks to sell infringing merchandise bearing the Complainant’s THE SIMS trademark.

## **B. Respondent**

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

## **6. Discussion and Findings**

Notwithstanding the default of the Respondent, the Complainant has the burden of proof to make its case in accordance with paragraph 4(a) of the Policy, and to demonstrate 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.

However, under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel “shall draw such inferences therefrom as it considers appropriate”.

Having considered the Parties’ submissions, the Policy, the Rules, the Supplemental Rules and applicable law, the Panel’s findings on each of the above-mentioned elements are the following.

### **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 SIMS 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.

Despite the addition of other terms, here “merch” (which is the abbreviation of the English word “merchandise”), may bear on assessment of the second and third elements, the Panel finds the addition of such 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.

## **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.

Panels have held that the use of a domain name, for here claimed: impersonation/passing off 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.

In the present case, the Panel notes that the Complainant has shown that THE SIMS trademarks have been registered and used for years.

Thus, taking into consideration the Complainant’s goodwill in THE SIMS trademarks, and in the absence of arguments or evidence to the contrary, the Panel finds that the circumstances of this case indicate that, on the balance of probabilities, the Respondent knew or should have known about the Complainant and likely registered the disputed domain name to target the Complainant’s mark.

The fact that the Respondent used the disputed domain name to operate a website offering merchandises incorporating the Complainant’s THE SIMS trademarks supports the Panel’s finding on bad faith.

Panels have held that the use of a domain name for illegal activity, here, claimed impersonation/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 <thesimsmerch.com> be transferred to the Complainant.

*/Alexandre Nappey/*

**Alexandre Nappey**

Sole Panelist

Date: March 14, 2025