ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
TicTac Learn Group AB v. Ariana Estefania Curco Morales, Tic Tac Learn
Case No. D2025-1060

1. The Parties

The Complainant is TicTac Learn Group AB, Sweden, represented by Hansson Thyresson AB, Sweden.

The Respondent is Ariana Estefania Curco Morales, Tic Tac Learn, Mexico, represented by RTFM Abogados, Mexico.

2. The Domain Name and Registrar

The disputed domain name <tictaclearn.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 14, 2025. On March 14, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 14, 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 ("Registration Private, Domains By Proxy, LLC") and contact information in the Complaint. The Center sent an email communication to the Complainant on March 17, 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 March 18, 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 March 20, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 9, 2025. The Response was filed with the Center on April 8, 2025.

The Center appointed Adam Taylor as the sole panelist in this matter on April 10, 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, which was founded in 1999, provides eLearning authoring tools, platform workshops, and training services under the mark TICTAC. The Complainant has a turnover of some EUR 27 million and it serves over 4,000 businesses across Northern Europe, from small enterprises to multinational corporations.

The Complainant[1] owns European Union ("EU") Trade Mark No. 018092420 for TICTAC, filed on July 9, 2019, published on July 26, 2019, registered on November 2, 2019, in classes 9, 16, 38, 41, 42 ("the Complainant's Mark").

The Complainant[2] also owns EU Trade Mark No. 019083790 for TICTAC LEARN, filed on September 25, 2024, registered on January 28, 2025, in classes 9, 16, 38, 41, 42.

The Complainant operates a website at "www.tictaclearn.net". This domain name was registered on February 7, 2022.

The disputed domain name was registered on July 28, 2019.

The Respondent operates a kindergarten in Monterrey, Mexico, and provides related services such as summer camps for toddlers, under the mark TICTAC LEARN.

The Respondent owns the following Mexican trade marks for TIC TAC LEARN plus design ("the Respondent's Logo"):

- No. 2295470, filed on June 28, 2021, and registered on September 7, 2021, in class 45;
- No. 2331321, filed on September 17, 2021, and registered on November 26, 2021, in class 35; and
- No. 2341630, filed on September 17, 2021, and registered on January 7, 2022, in class 41.

All of these trade marks ("the Respondent's Marks") bear a first use date of August 1, 2019.

The Complainant has produced an undated screenshot showing the disputed domain name resolving to a WordPress login page.

The Respondent has produced an undated screenshot showing the disputed domain name resolving to a website branded with the Respondent's Logo plus the heading "School for Thoughtful Parents". The page includes a "Mis Cursos" (my courses) button, contact details and a copyright notice "© 2025 Tic Tac Learn Copyright".

The Respondent also operates an Instagram account called "tictaclearn" with some 3,700 followers, which links to the website at the disputed domain name and displays the Respondent's Logo.

Google search results for "tic tac learn kinder" feature various results relating to the school including a photo of the school, which features a large sign with the Respondent's logo.

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[1] The Panel notes that this trade mark is owned by "TicTac Learn AB", whereas the Complainant is identified as "TicTac Learn Group AB". If these are different entities, the Panel considers it likely that they are part of the same corporate group. In these circumstances, and in the absence of any objection from the Respondent, the Panel thinks it reasonable to infer that the Complainant has rights in the trade mark for the purpose of standing to file the Complaint. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.4.1.

[2] See previous footnote, which also applies to this trade mark.

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 Complainant has dedicated significant resources and time in building a recognised reputation and associated goodwill in its products and services, and is regarded by its customers and the public as "a successful eLearning company";
- the Complainant has publicised its mark through its marketing channels and website;
- the Respondent has no rights in mark TICTAC and is not a licensee of the Complainant;
- the Respondent is not using the disputed domain name for any legitimate noncommercial purpose and there is no evidence that the Respondent is commonly known by the disputed domain name;
- the Respondent is using the disputed domain name, comprising the Complainant's trade mark with the addition of the descriptive term "learn", in order to confuse consumers into believing that the Respondent is connected with the Complainant and to tarnish the Complainant's trade mark;
- the Complainant has been using its mark for many years before the disputed domain name was registered;
- registration of the disputed domain name only nine days after filing, and two days after publication, of the Complainant's EU Mark shows that the Respondent was aware of the Complainant's prior rights; and
- the disputed domain name was registered and is being used primarily to capitalise on, or otherwise take advantage of, the Complainant's trade mark rights for commercial gain.

B. Respondent

The Respondent contends that the Complainant has failed to satisfy all three of the elements required under the Policy for transfer of the disputed domain name. Notably, the Respondent contends that:

- the Complainant's mark only creates right in the EU;
- while trade mark owners can use their marks as domain names, in this case the focus is on domain names, not trade marks;
- even if the disputed domain name is similar to the Complainant's mark, the disputed domain name and the Respondent's Marks predate the Complainant's own domain name by three years and one year, respectively, meaning that the Respondent has acquired legitimate prior rights in connection with the disputed domain name;
- the Respondent has produced "the real screenshot" of the Respondent's website and the Complainant's screenshot of a login page is proof of the Complainant's bad faith;
- contrary to the Complainant's assertions, the word "learn" is distinctive in connection with the disputed domain name because it reflects the Respondent's Marks;
- the Complainant's domain name actually imitates the Respondent's Marks;
- the Respondent is commonly known by the disputed domain name, which corresponds to the Respondent's Marks, as shown by search results relating to the business;
- the Respondent has not offered to sell the disputed domain name and the Respondent did not register the disputed domain name for the sale to the Complainant, or to create confusion with the Complainant's services/mark, or otherwise for cybersquatting/fraud;
- the Respondent was not aware of the Complainant's services in the sense that the Respondent did not use the disputed domain name in bad faith because it corresponds to the Respondent's Marks;
- the Complainant's services, and their geographical location in Northern Europe, are completely different to those of the Respondent; and
- the Respondent seeks a finding of reverse domain name hijacking.

6. Discussion and Findings

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 trade mark and the disputed domain name. WIPO Overview 3.0, section 1.7.

The Complainant has shown rights in respect of trade marks for TICTAC and TICTAC LEARN for the purposes of the Policy. WIPO Overview 3.0, section 1.2.1.

The entirety of the marks is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical/confusingly similar to the marks for the purposes of the Policy. WIPO Overview 3.0, section 1.7.

Although, in the case of TICTAC trade mark, the addition of other terms (here, "learn") 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 this mark for the purposes of the Policy. WIPO Overview 3.0, section 1.8.

The Respondent invokes the fact that the disputed domain name predates the Complainant's own domain name <tictaclearn.net> by some three years. However, under the first element, the Panel's role is to compare the disputed domain name with the Complainant's trade mark, not with the Complainant's domain name. Furthermore, the Complainant's trade mark rights are assessed as at the date of the Complaint, not as at the date of registration of the disputed domain name (WIPO Overview 3.0, section 1.1.3). Insofar as the Complainant's later registration of its own domain name is relevant, it falls for consideration under the second and/or third elements.

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

B. Rights or Legitimate Interests

The Respondent has provided evidence that it has operated a kindergarten called TIC TAC LEARN in Monterrey, Mexico, since 2019, including: use of the disputed domain name for a website that promotes the business; a similarly-named/branded Instagram account with some 3,700 followers that links to the website; and various Google search results relating to the school, including a photo thereof that features a prominent sign with the Respondent's Logo.

While the Respondent has not explained why, at some point, the disputed domain name resolved to a WordPress login page, the Panel has no reason to doubt that the disputed domain name has at other times resolved directly to a website relating to the school. The Panel further notes that, at the time of this decision, the disputed domain name still resolves to such website.

Furthermore, as mentioned in section 4 above, the Respondent owns the Respondent Marks, which correspond to the disputed domain name and to the Respondent's logo. The Respondent's Marks date from June 28, 2021, and bear a first use date of August 1, 2019.

While, on the face of it, therefore, the Respondent has established rights or legitimate interests under paragraphs 4(c)(i) (bona fide offering of goods or services) and 4(c)(ii) (commonly known by the disputed domain name) of the Policy, the position might be otherwise if the circumstances indicated (a) cybersquatting intent and/or (b) that the Respondent's Marks were obtained primarily to circumvent the application of the UDRP or otherwise prevent the Complainant's exercise of its rights. WIPO Overview 3.0, sections 2.2, 2.3 and 2.12.

The Complainant relies strongly on the fact that the Respondent registered the disputed domain name only two days after publication of the Complainant's TICTAC trade mark. The Respondent's answer is somewhat ambiguous. First, the Respondent denies knowledge of the "Complainant's services", not its name/mark. Second, the Respondent confusingly qualifies its denial by placing it in the "sense" that the Respondent was not using the disputed domain name in bad faith because it corresponded to the Respondent's Marks – which may (or may not) be intended to mean that the Respondent knew of the Complainant's application/mark but considered that it was nonetheless justified in registering/using the disputed domain name by reason of its own marks. Third, the Respondent has not specifically commented on the timing issue, e.g., to suggest that it was a coincidence.

The Respondent has instead relied on the allegation, based on the 2022 registration of the Complainant's own <tictaclearn.net> domain name, that the Complainant only started using its TICTAC LEARN formulation some three years after registration of the disputed domain name. For its part, the Complainant has not claimed any rights in TICTAC LEARN (whether as of the date of registration of the disputed domain name or otherwise) other than to provide a link to its current website. Furthermore, the Panel notes that the Complainant's registered trade mark for TICTAC LEARN (not mentioned in the Complaint) was only filed in 2024. Accordingly, the Panel proceeds on the basis that the Respondent's registration of the disputed domain name did indeed precede the Complainant's use of TICTAC LEARN, i.e., the version of the Complainant's name which corresponds exactly to the disputed domain name.

However, that still leaves open the question as to whether the Respondent included "tictac" in the disputed domain name independently of the Complainant's Mark published two days earlier. To the Panel, "tictac" is a far from obvious term to use in an education context. Notably, the Respondent has not explained how it conceived its name, let alone supplied any evidence of reference to this term prior to the date of publication of the application for the Complainant's mark. While it may seem unlikely that the Respondent, who operates a Mexican kindergarten with no apparent EU connection, would have had reason to monitor the EU trade marks Register, the Panel will nonetheless proceed on the assumption that the Respondent was aware of the application for the Complainant's mark when the Respondent registered the disputed domain name – given the Respondent's ambiguous and unsatisfactory responses on this point.

That said, and while in many cases registering a domain name corresponding to a just-published and distinctive trade mark might be seen as highly incriminating, it is feasible that the Respondent took inspiration from the Complainant's mark, while still intending to use it in a way that did not impinge on that mark. That interpretation is supported by the fact that the Respondent's business, as a physical kindergarten, is both located in and specific to Mexico, whereas the Complainant says its customers are located in Northern Europe. Also, albeit that both operate in the field of education, the Complainant and the Respondent offer very different services: sophisticated eLearning tools and services aimed at businesses versus a kindergarten. In these circumstances, it seems highly unlikely to the Panel that the Respondent would have thought that that had anything to gain by targeting the Complainant's trade marks.

Accordingly, despite the deficiencies in the Response, the Panel considers that the evidence points to a lack of indicia of cybersquatting intent. Nor has the Panel been provided with any reason to think that the Respondent applied for the Respondent's Marks as some sort of defensive manoeuvre vis-à-vis the Complainant, rather than legitimately to protect the Respondent's business.

For the above reasons, the Panel finds that, before notice to the Respondent of the dispute, the Respondent used the disputed domain name in connection with a bona fide offering of services. WIPO Overview 3.0, section 2.2. The Panel also finds that the Respondent has been commonly known by a name corresponding to the disputed domain name. WIPO Overview 3.0, section 2.3.

The Panel finds the second element of the Policy has not been established.

C. Registered and Used in Bad Faith

It is unnecessary for the Panel to consider this element in light of the Panel's finding under the second element above.

D. Reverse Domain Name Hijacking ("RDNH")

The Respondent claims that the Complainant is guilty of RDNH.

Paragraph 15(e) of the Rules provides that, if "after considering the submissions the panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding". RDNH is defined under the Rules as "using the UDRP in bad faith to attempt to deprive a registered domain-name holder of a domain name". The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. WIPO Overview 3.0, section 4.16.

In the Panel's view, the coincidence in timing between publication of the Complainant's mark and registration of the disputed domain name, plus the lack of an active website at the disputed domain name when checked by the Complainant, neither of which has been adequately addressed by the Respondent, justified the Complainant in filing the Complaint. Accordingly, although the Complainant has ultimately lost, the Panel considers that the circumstances of this case fall well short of RDNH.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Adam Taylor/
Adam Taylor
Sole Panelist
Date: April 24, 2025