

ADMINISTRATIVE PANEL DECISION

Orkin Expansion, Inc. v. HOLA DOMAINS
Case No. D2025-1592

1. The Parties

The Complainant is Orkin Expansion, Inc., United States of America ("US"), represented by Arnall Golden Gregory LLP, US.

The Respondent is HOLA DOMAINS, Costa Rica.

2. The Domain Name and Registrar

The disputed domain name <orkintherm.com> is registered with DropCatch.com LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 18, 2025. On April 22, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 22, 2025, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint [together with the amendment to the Complaint/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 April 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 18, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 19, 2025.

The Center appointed Mladen Vukmir as the sole panelist in this matter on May 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 Orkin Expansion, Inc., a US company operating in the field of pest control and building insulation installation services.

The Complainant is the owner of numerous registered ORKIN trademarks, including ORKIN trademark registered in US on December 23, 1952, under the registration number 568404, for services in classes 37 and 40 of International Classification ("IC"), OKRIN trademark (logo) registered US on December 23, 1952, under the registration number 568407, for services in classes 37 and 40 of IC, and ORKINTHERM trademark registered in US on November 5, 2013, under the registration number 4429400, for goods and services in classes 17 and 37 of IC.

The disputed domain name was registered on July 2, 2017, and resolves to a website that contains pay-per-click ("PPC") links where the same type of services as the Complainant's have been offered.

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:

(i) The Complainant is the owner of the famous trademark ORKIN, which it has used for more than 90 years in connection with the provision of pest control services and an array of other services. The Complainant currently maintains more than 50 US trademark registrations that include term "Orkin". The Complainant is the owner of ORKINTHERM trademark, which it has used for nearly 13 years in connection with the provision of building insulation and building insulation installation services.

(ii) The disputed domain name is confusingly similar to the Complainant's ORKIN trademark, and is identical to its ORKINTHERM trademark, as it incorporates the ORKINTHERM mark in its entirety.

(iii) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent does not provide any services or conduct any business under the name "Orkintherm", nor has it ever done so. The Respondent is not related in any way to the Complainant's business. The Respondent is not one of the Complainant's franchisees, employees, or agents, and does not carry out any activity for, or have any business relationship with the Complainant. The Respondent has never been authorized by the Complainant to use the Complainant's ORKINTHERM trademark or to use any domain name incorporating the ORKINTHERM trademark.

(iv) The term "Orkin" has no common meaning and is a famous US brand. The likelihood that the Respondent would legitimately and without any bad faith register any domain name that includes "orkin", much less a domain name that pairs "orkin" with the unique word "therm", is not remotely plausible. Further, the website created under the disputed domain name includes links offering the same types of services that the Complainant provides under its ORKIN and ORKINTHERM trademarks, namely pest control and attic insulation services. Consumers who are looking for the Complainant's ORKIN or ORKINTHERM services but who end up on the Respondent's website are likely to consider, when seeing the links ("Related Searches") displayed there, that it is the Complainant's website, or is in some way connected or affiliated with the Complainant. The incorporation of the Complainant's distinctive ORKINTHERM trademark, combined with the misleading content targeting the same services, clearly supports a finding of bad faith. The Complainant submits that, on the evidence, by registering and using the disputed domain name, as it does, the Respondent has intentionally attempted to attract for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source,

sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location within paragraph 4(b)(iv) of the Policy.

B. Respondent

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

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 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 ORKINTHERM trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The generic Top-Level domain ".com" is a standard registration requirement and as such may be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel concludes that the Complainant has met the requirements of paragraph 4(a)(i) of the Policy by proving its rights to the ORKINTHERM trademark and demonstrating that the disputed domain name is identical to its ORKINTHERM trademark.

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 with 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 Respondent is not authorized by the Complainant to use the ORKINTHERM trademark, and there is no indication that the Respondent is commonly known under the disputed domain name. There is no apparent relation, from the record, between the Respondent and the Complainant, nor does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its ORKINTHERM trademark, or to apply for or use any domain name incorporating the same trademark.

There is no evidence in the case file or otherwise apparent to the Panel that the Respondent has been using the disputed domain name in connection with a bona fide offering of goods or services, or making a legitimate noncommercial or fair use of the disputed domain name. The Respondent has failed to provide any reply to the Complaint and accordingly failed to rebut the Complainant's showing that the Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, the Panel considers that the composition of the disputed domain name, being identical to the Complainant's ORKINTHERM trademark, carries a high risk of implied affiliation with the Complainant.

[WIPO Overview 3.0](#), section 2.5.1.

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.

The Panel accepts that term "orkin" has no common meaning. For purposes of this proceeding, the Panel considers the Complainant's ORKIN and OKRINTHERM trademarks as distinctive in the field of pest control and other home services.

In the present case, the Respondent's actions regarding the registration and use of the disputed domain names demonstrate bad faith. The Complainant's trademarks were registered well before the disputed domain name, and the Respondent has never received authorization from the Complainant to use its ORKIN or OKRINTHERM trademark or to register the disputed domain name.

The disputed domain name resolves to a website that displays a section titled "related searches" and contains PPC links offering the same types of services that the Complainant provides under its ORKIN and ORKINTHERM trademarks. This creates a misleading impression that could cause Internet users to believe that the Respondent is somehow associated with the Complainant when it is not. The Panel holds that by using the disputed domain name, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its websites in the sense of Policy, paragraph 4(b)(iv).

Having in mind the nature and use of the disputed domain name, the Panel is of opinion that the Respondent registered the disputed domain name well aware of the Complainant's OKRINTHERM trademark, and is using the disputed domain name to attract Internet users. The Panel concludes that 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 <orkintherm.com> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: June 10, 2025