

ADMINISTRATIVE PANEL DECISION

Felipe Ospina v. Prempracha DMELLO

Case No. D2025-1642

1. The Parties

The Complainant is Felipe Ospina, Colombia, self-represented.

The Respondent is Prempracha DMELLO, Thailand, self-represented.

2. The Domain Name and Registrar

The disputed domain name <watertimer.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 April 23, 2025. On April 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 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 (Domains By Proxy, LLC (GoDaddy Privacy Service)) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 28, 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 April 28, 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 May 1, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2025. The Response was filed with the Center on May 1, 2025.

On May 2, 2025, the Complainant submitted to the Center a Supplemental Filing, to which the Respondent replied on the same day.

The Center appointed Edoardo Fano as the sole panelist in this matter on June 2, 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.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties. As regards the Complainant's Supplemental Filing and the following Respondent's response, the Panel decides to accept both of them, although in the opinion of the Panel they do not add any relevant information to the present case.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is Felipe Ospina, from Colombia, an individual operating in the field of water control devices, and owner of the following trademark registration and application:

- Colombian Trademark Registration No. 775731 for WATER TIMER EVERY DROPS MATTERS and design, applied for on April 24, 2024, and registered on April 9, 2025;
- Canadian Trademark Application No. 2382968 for WATER TIMER, filed on February 27, 2025.

The Complainant also founded the Company Water Timer LLC in St. Petersburg, Florida, United States of America ("United States"), and has filed the following trademark application:

- United States Trademark Application No. 99079853 for WATER TIMER, filed on March 12, 2025.

The Complainant also operates on the Internet with its primary subscription landing page at "www.watertimer.co", as well as owning other domain names for WATER TIMER, including <watertimer.app>, <watertimer.io>, <watertimer.net>, all of them redirecting to the above subscription landing page at "www.watertimer.co".

The Complainant has provided evidence in support of the above.

The Respondent is Prempracha DMELLO, from Thailand, operating in the field of automatic water timers for gardens, who acquired the disputed domain name on February 8, 2023, for USD 4,120, after a negotiation process that began in August 2019.

On February 21, 2025, a DomainAgents broker contacted the Respondent on behalf of the Complainant in order to purchase the disputed domain name with an offer of USD 500, which was refused by the Respondent.

The Respondent has provided evidence in support of the above.

According to the Whois record, the disputed domain name was registered on November 16, 2001, and it resolves to a website on which information about automatic water timers for gardens is provided.

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 identical to its trademark WATER TIMER.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name, it is not commonly known by the disputed domain name, and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name was dormant for an extended period of time and only began displaying generic content after the Complainant initiated contact through DomainAgents in an attempt to purchase the disputed domain name at fair market value.

The Complainant submits that the Respondent has registered and is using the disputed domain name in bad faith, since the latter is clearly being held passively for speculative resale and not for any legitimate use, obstructing the Complainant's ability to acquire the rightful ".com" domain for its global brand, causing confusion and weakening the Complainant's online presence and goodwill.

B. Respondent

The Respondent contends that the Complainant has not satisfied two of the elements required under the Policy for a transfer of the disputed domain name and therefore requests the denial of the relief requested in the Complaint.

Notably, the Respondent acknowledges that the term "water timer" is a trademark owned by the Complainant. However, the Respondent asserts that, while the disputed domain name is identical to the Complainant's trademark, the term "water timer" is generic and descriptive, widely used to refer to irrigation and gardening equipment, and that the Complainant's trademark is registered in Colombia and not universally recognized, and similar applications in the United States and Canada are still pending and unregistered.

Moreover, the Respondent asserts to have rights and legitimate interests in the disputed domain name, as the latter is used for a genuine informational website related to water timers, which is a generic term, without trying to sell, lease, or transfer it for profit or to mislead users into thinking it is affiliated with the Complainant, but instead making a noncommercial use of it that aligns with common and fair domain use practices.

The Respondent contends that the disputed domain name was not registered in bad faith, but instead it was purchased at personal expense for an original, standalone project. The Respondent asserts that the Complainant attempted to purchase the disputed domain name and, after being declined, filed this UDRP case, suggesting a motive of Reverse Domain Name Hijacking. The Respondent submits that its refusal to sell the disputed domain name, especially at a low price, was honest and without any threat or coercion, and that the content of the website at the disputed domain name is not deceptive, infringing, or designed to exploit any confusion.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

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.

Based on the available record, the Panel finds 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 Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is also well accepted that a generic Top-Level Domain, in this case ".com", is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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 the second element. [WIPO Overview 3.0](#), section 2.1.

The Complainant, as set out above, asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name, nor is making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The Complainant states that, since the registration of the disputed domain name, the Respondent has been either not using it, or using it by only displaying generic content after the Complainant initiated contact in an attempt to purchase the disputed domain name.

The Respondent, on the other hand, claims to have rights in respect of the disputed domain name, since it was registered as an investment, being a valuable, generic term, and denies that the disputed domain name is deceptive, infringing, or designed to exploit any confusion with the Complainant's trademark.

In any event, in light of the Panel's findings below it is not necessary to make a determination on the matter.

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 evidence in the case file as presented does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's trademark.

In fact, the Panel finds that the Respondent did not register the disputed domain name in bad faith targeting of the Complainant or its trademark rights because the Complainant had no trademark rights at the time that the Respondent registered the disputed domain name. [WIPO Overview 3.0](#), section 3.8.1.

The reason why the disputed domain name, registered back in 2001, was dormant for an extended period of time is because the Respondent only acquired it in February 2023, in any case before the oldest trademark application for WATER TIMER that was filed by the Complainant in Colombia in April 2024. As regards the creation by the Complainant of the United States Company Water Timer LLC, the Panel, in accordance with its powers to consult matters of public record (see [WIPO Overview 3.0](#), section 4.8), has found out that it was incorporated in April 2024, that is when the first trademark application for WATER TIMER that was filed by the Complainant in Colombia, namely more than a year after the Respondent acquired the disputed domain name.

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

D. Reverse Domain Name Hijacking

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 (RDNH) or 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.

The Rules define RDNH as "using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name".

The Respondent has sought a finding of RDNH be made against the Complainant.

As detailed in the above analysis of the third element, the Panel finds that the Complainant has contravened the above RDNH bases, because he knew or should have known that there was no evidence of the Respondent's bad faith directed towards the Complainant, making highly unlikely if not impossible that the Respondent had been targeting the Complainant. Finally, as it has been stated in previous decisions, a complainant is at risk of a RDNH declaration when its attempt to try and buy a domain name is not successful, and it tries to obtain it by using, or rather "abusing", the UDRP.

Paragraph 15(e) of the Policy 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 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. 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 present case for the reasons explained above the Panel finds that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.

7. Decision

For the foregoing reasons, the Complaint is denied. Moreover, the Panel finds that the Complaint has been brought in bad faith and constitutes an attempt at Reverse Domain Name Hijacking.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: June 13, 2025