

ADMINISTRATIVE PANEL DECISION

Peet Limited v. Domain Admin, Tucows.com Co
Case No. D2025-1847

1. The Parties

Complainant is Peet Limited, Australia, represented by Bennett Litigation and Commercial Law, Australia.

Respondent is Domain Admin, Tucows.com Co, Canada, represented by John Berryhill, Ph.d., Esq., United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <peet.com> is registered with Tucows Domains Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 12, 2025. On May 12, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Unknown Registrant) and contact information in the Complaint. The Center sent an email communication to Complainant on May 14, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on May 16, 2025.

The Center verified that the Complaint together with the 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 Respondent of the Complaint, and the proceedings commenced on May 16, 2025. In accordance with the Rules, paragraph 5, the initial due date for Response was June 5, 2025. Upon request of Respondent, this due date was extended to June 9, 2025, under paragraph 5(b) of the Rules. The Response was filed with the Center on June 9, 2025.

The Center appointed Stephanie G. Hartung, Deanna Wong Wai Man, and Sally M. Abel as panelists in this matter on July 1, 2025. The Panel finds that it was properly constituted. Each member of 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

Complainant is a company organized under the laws of Australia that is active in the residential land developers' business in Australia, creating master-planned communities, townhouses, and apartments.

Complainant is the registered owner of various national Australian trademarks relating to its company name and brand PEET, inter alia, but not limited, to the following:

- word/design trademark PEET P, Australian Government / IPA Australia ("IP Australia"), registration No.: 652300, registration date: February 3, 1995, status: active;
- word trademark PEET, IP Australia, registration No.: 1063747, registration date: July 7, 2005, status: active.

Moreover, Complainant has demonstrated to own, among other domain names, the domain name <peet.com.au> since 1996, which resolves to Complainant's main website at "www.peet.com.au", used to promote Complainant's land developing business in Australia.

Respondent is an ICANN-accredited registrar which, inter alia, is active in the business of offering personalized email addresses. The disputed domain name was first registered on June 7, 1996; it resolves to a website at "www.peet.com", operated by "Hover" (a service of Respondent), which offers personalized email addresses registration services to the public under the disputed domain name.

On or before June 15, 2006, Respondent publicly announced that it entered into an agreement with a company Mailbank.com Inc., and, thus, acquired a portfolio of around 17,000 common surname domain names for a price of USD 18 million.

Complainant requests that the disputed domain name be transferred to Complainant, while Respondent requests that the Complaint be denied.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. Notably, Complainant contends that it was founded by James Thomas Peet in 1895 in Perth, Western Australia, and has since become one of Australia's largest residential land developers. Further, Complainant illustrates that, due to long and extensive use and evidenced by various Australian rewards received between 2023 and 2024, Complainant's PEET trademark has acquired significant goodwill in connection with Complainant's business in Australia.

Complainant submits that the disputed domain name is identical to Complainant's PEET trademark, as it incorporates the latter in its entirety.

Further, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Complainant had been traded under the PEET trademark for 101 years when the disputed domain name was created in 1996, (2) Complainant had registered PEET trademarks since 1995, (3) Complainant does not have, and never has had, any association or affiliation with Respondent or its "Hover" service, nor has Complainant at any time authorized Respondent or Hover to use or register the disputed domain name, (4) Respondent has no trademark rights in the name "Peet" or any variation thereof, and is not known by that name, nor does it run any commercial business under it, and (5) though use of a

domain name for a personalized email service has been recognized in former UDRP decisions as a legitimate interest in a domain name for the purposes of paragraph 4(a)(ii) of the Policy, there is an exception where e.g. the disputed domain name is identical to Complainant's PEET trademark and registered business name, and where Complainant has owned registered trademark rights in the name "Peet" since 1995.

Last, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) Respondent appears to have acquired the disputed domain name on February 20, 2024, as evidenced by an ownership data extract evidencing the last change in the disputed domain name ownership, (2) archived pages of the Hover website obtained from the Wayback Machine between 2008 and 2009 show that the disputed domain name was used for search links on various topics, including finance and home, and not for a personalized email service, (3) given the long-standing significant reputation in the PEET trademark and brand, Respondent was, or should have been, aware of Complainant and its trademark and brand at the date of Respondent's disputed domain name registration, (4) on the balance of probabilities, Respondent is seeking to profit from the trademark value of the word "peet" by using the disputed domain name in connection with a personalized email service, and (5) Respondent's customers may create email addresses under "[...]@peet.com" with the intention of imitating an employee of Complainant.

B. Respondent

Respondent contends that Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name. Notably, Respondent claims that since it acquired the disputed domain name as part of the Mailbank.com surname email business acquisition in 2006, Complainant's recitations of reputation, awards and trademark registrations received in recent years are wholly irrelevant to the circumstances applying at the time Respondent acquired the disputed domain name.

Respondent acknowledges that Complainant has satisfied the first element under the Policy by showing that the disputed domain name is identical to a trademark in which Complainant has rights, but notes that at the time Respondent acquired the disputed domain name, Complainant only owned four Australian figurative trademark registrations for the surname of its founder, in relation to a real estate business only confined to Australia, and which received no public recognition outside of Australia prior to 2023.

Further, Respondent asserts that it has legitimate interests in respect of the disputed domain name since (1) the term "peet" primarily is a common surname, as Complainant's corporate name, which derived from its founder James Thomas Peet, suggests, (2) the domain name portfolio acquired by Respondent in 2006 from Mailbank.com Inc. represented at least 68% of surnames in the United States and Europe, and also included the disputed domain name as demonstrated by a Whois history record showing Mailbank.com Inc. as the registrant of the disputed domain name as of March 2006, prior to its purchase along with the other names in the portfolio by Respondent, (3) in 2008, Respondent announced that it was launching a "Personal Names Service" using its portfolio of 39,000 domain names in total, (4) Respondent's use of the disputed domain name prior to this dispute has absolutely nothing to do with Complainant's PEET trademark for real estate development or management, (5) the use of surname domain names for a bona fide email service is well-trodden territory in UDRP jurisprudence, and the cases referred to by Complainant in order to demonstrate the contrary are exceptional and neither of them resulted in a transfer of the subject disputed domain names as they were advanced under paragraph 4(k) of the Policy to litigation in the Mutual Jurisdiction.

Last, Respondent argues that the disputed domain name was neither registered nor is it used in bad faith since (1) it is amply clear that acquisition of the disputed domain name among those 17,000 domain names was for the purpose of developing and re-launching the same sort of service for which the disputed domain name was used by Respondent's predecessor Mailbank.com Inc., and that, as a constituent name of that portfolio, Respondent's motivation was to acquire a large collection of surname domain names, and Respondent did not buy the other 16,999 names (taking the approximate figure of 17,000 in the purchase) for USD 18 million in some targeted effort of bad faith against Complainant to camouflage acquisition of the disputed domain name by craftily hiding it among thousands of other surname domains in the same purchase transaction, (2) Respondent has never heard of Complainant, nor is there any reason for Respondent, a Canadian domain name registrar, to have any familiarity with a company which claims to be

involved exclusively in real estate development in Australia, thus, in an inherently geographically limited business, and (3) going by the Complaint, even in Australia, Complainant had never received any public recognition or awards until 2023 at the earliest, therefore, Complainant was relatively unknown in Australia at the time the disputed domain name was acquired by Respondent, let alone in Canada.

6. Discussion and Findings

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

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

6.1 Preliminary Issue: Acceptance of Supplemental Filing

On July 3, 2025, Respondent sent an email to the Center providing a court decision by the Toronto Superior Court of Justice rendered July 2, 2025, thus, available only after the filing of the Response, that directly relates to the UDRP proceeding in *Marker Völkl (International) GmbH v. Tucows.com Co.*, WIPO Case No. [D2012-1461](#), cited and relied on by Complainant.

Paragraphs 10 and 12 of the Rules grant the Panel sole discretion to determine the admissibility of unsolicited supplemental filings. While paragraph 10(d) states that: “The Panel shall determine the admissibility, relevance, materiality and weight of the evidence”, paragraph 12 provides that: “In addition to the complaint and the response, the Panel may request, in its sole discretion, further statements or documents from either of the Parties”. The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 4.6 further states that “unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel”.

Given the specific timing of the rendering of the Toronto court decision in relation to this UDRP proceeding, and in light of the fact that both Parties have commented on the very specific UDRP case which relates thereto, the Panel accepts Respondent's unsolicited supplemental filing, but wishes to confirm that doing so had no effect on the outcome of this case, and that both Parties were still treated equally and fair within the Panel's commitment set forth by paragraph 10 of the Rules.

Having said so, the Panel comes to the following Decision:

6.2 Substantive Issues

A. Identical or Confusingly Similar

First, it is well accepted that Complainant has shown rights in respect of its PEET trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Moreover, the entirety of such trademark is reproduced within the disputed domain name, without any additions or modifications whatsoever. Accordingly, the disputed domain name is identical to Complainant's PEET trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

B. Rights or Legitimate Interests

Second, paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in the disputed domain name, e.g., if, before any notice to Respondent of the dispute, Respondent did use, nor made demonstrable preparations to use, the disputed domain name in

connection with a bona fide offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.

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.

In the case at hand, it is undisputed between the Parties that the disputed domain name forms part of a personalized email address service operated by Respondent as “Hover”, allowing Respondent’s customers to register personalized email addresses under the disputed domain name (e.g. as <name@peet.com>). Moreover, both Parties acknowledge that such personal email address business has been recognized in many former UDRP decisions as being, in general, a legitimate interest in a domain name for the purposes of paragraph 4(a)(ii) of the Policy (see e.g.: *Damstra Technology Pty Ltd v. Domain Admin, Tucows.com Co*, WIPO Case No. [D2021-0675](#); *Robert Bosch GmbH v. Domain Admin, Tucows.com Co*, WIPO Case No. [D2017-2549](#) et.al.). Complainant, however, argues that the prerequisites for such general legitimacy would not be fulfilled in the case at hand because (1) the disputed domain name was identical or confusingly similar to Complainant’s PEET trademark and registered business name, (2) Complainant had registered trademark rights in the name “Peet” since February 3, 1995, and (3) the disputed domain name was created on June 7, 1996, when Complainant had been trading under the name “Peet” 101 years.

Nevertheless, this Panel, on the basis of the facts brought before it, sees no reason to deviate from the previous UDRP panels’ categorization of Respondent’s business model as legitimate, especially since the former UDRP decisions that Complainant cites to substantiate its line of argumentation (e.g. *Marker Völkl (International) GmbH v. Tucows.com Co.*, WIPO Case No. [D2012-1461](#)) do not suggest such a deviation, e.g., as they were successfully challenged by Respondent in the courts of Mutual Jurisdiction. In this context, it is important to note that Respondent has provided several arguments and supportive evidence (such as e.g., a press release) that it acquired the disputed domain name not on February 20, 2024, as asserted by Complainant, but on or around June 15, 2006, as part of a huge domain name portfolio of roughly 17,000 domain names reflecting surnames such as the surname “Peet” forming part of the disputed domain name. Complainant, in turn, only provided a Whois data sheet taken from WHOXY Domain Search Engine at “www.whoxy.com”, indicating some changes in the Whois data for the disputed domain name on February 20, 2024, but also evidencing that the disputed domain name was held by Respondent at least since January 24, 2016. In light of such timing, it is also worth noting that, on the basis of Complainant’s own contentions, it acquired reasonable recognition through various awards only in the years 2023/2024, when the disputed domain name surely was already acquired by Respondent and formed part of its legitimate personalized email address business model.

Taking all the foregoing elements into account, this Panel finds that it is more likely than not that Respondent’s making use of the disputed domain name over a number of years has been wholly independent of Complainant’s PEET trademark and business. The Panel accepts that Respondent’s use of the disputed domain name aligns with a consistent business practice of registering domain names corresponding to surnames for the provision of personalized email address services. In this regard, the Panel particularly notes that the disputed domain name is being used in sense as a surname, and not in any manner that suggests an intention to target Complainant or to reference its PEET trademark, business, or services. Rather, Respondent’s approach appears to be based on the value of the disputed domain name as a surname – an approach that is reflected across numerous other domain names forming part of Respondent’s broader business model. Clearly, before any notice to Respondent of the dispute, Respondent used, or made demonstrable preparations to use, the disputed domain name in a bona fide offering of services as set forth by paragraph 4(c)(i) of the Policy.

The Panel, therefore, finds that legitimate interests of Respondent in the disputed domain name exist and that, therefore, the second element of the Policy has not been established.

C. Registered and Used in Bad Faith

Third, and – in light of Complainant's failure to establish the second element – solely for the sake of completeness, the Panel wishes to express its view that Respondent also has neither registered nor is it using the disputed domain name in bad faith as required by paragraph 4(c) of the Policy.

The Panel does not see sufficient evidence, provided by Complainant, indicating that Respondent did register the disputed domain name in bad faith targeting Complainant and its PEET trademark or that Respondent's aim in registering the disputed domain name was to impersonate Complainant or obtain undue profit from it or exploit the latter. As laid out in Section B. above, on the basis of the evidence, provided by Complainant as presented to this Panel, it is more likely than not that Respondent acquired the disputed domain name already back in the year 2006 as part of its acquisition of Mailbank.com Inc. and a portfolio of around 17,000 surname domain names. Based on Complainant's own contentions, by that time and even years later in 2008, when Respondent started to use the disputed domain name for its personalized email address service, Complainant did not enjoy an international level of recognition beyond the borders of the Australian continent that would have allowed to conclude that Respondent knew of or should have known of Complainant and its PEET trademarks back in 2006 and that the acquisition of the disputed domain name was in any kind directed at or targeting such trademark. The mere risk that Respondent's customers may create email addresses under "[...]@peet.com" with the intention of imitating an employee of Complainant for e.g., some unlawful activities, does not turn Respondent's email service as such into a bad faith undertaking, unless there had been any evidence of such intentional use orchestrated by, or actively involving Respondent, which Complainant has not provided. In this context, the Panel has also taken into account that a possible abuse of an email address for some lawful purposes may take place in relation to any other surname forming part of Respondent's business concept and, absent any other indications turning into this direction, not only in relation to Complainant's PEET trademark. Having said so, the Panel was in fact somewhat surprised to read in the Response that Respondent itself seems to question whether or not the name "Peet" as reflected in Complainant's PEET trademark was or was not a common surname, thereby also somewhat questioning its own business concept and its own line of reasoning; nevertheless, the Panel, in spite of Respondent's mocking statements in that respect, followed Complainant's own contentions that its PEET trademark is based upon the "Peet" surname, allowing to conclude that the disputed domain name was registered and is being used by Respondent not to capitalize on its specific value as Complainant's PEET trademark, but instead as part of its surname email address service, and, accordingly, not in bad faith.

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

7. Decision

For the foregoing reasons, the Complaint is denied.

/Stephanie G. Hartung/

Stephanie G. Hartung

Presiding Panelist

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Panelist

/Sally M. Abel/

Sally M. Abel

Panelist

Date: July 15, 2025