

ADMINISTRATIVE PANEL DECISION

Gaijin Games Kft. v. Luong Van Thanh

Case No. D2025-4625

1. The Parties

The Complainant is Gaijin Games Kft., Hungary, internally represented.

The Respondent is Luong Van Thanh, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <activemattermerch.shop> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 7, 2025. On November 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 10, 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 (Whois protection) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 11, 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 amended Complaint on November 14, 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 the Respondent of the Complaint, and the proceedings commenced on November 20, 2025. In accordance with the Rules, paragraph 5, the due date for Response was December 10, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 12, 2025.

The Center appointed Iris Quadrio as the sole panelist in this matter on December 19, 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

Active Matter is a strategic extraction shooter set in a fractured multiverse where players engage in competitive and cooperative gameplay, collecting resources and confronting rival operatives in intense battles across unstable quantum zones. The game entered Early Access on September 9, 2025.

The Complainant is the owner of the following trademarks: (i) European Union trademark registration (EUIPO): ACTIVE MATTER, Reg No. 018571549, registered since March 18, 2022, in classes 9 and 41; (ii) United States of America Patent and Trademark Office (USPTO): ACTIVE MATTER, Reg No. 7617208, registered since December 24, 2024, in classes 9 and 41; (iii) International trademark registration: ACTIVE MATTER, Reg No. 1782882, registered since January 29, 2024, in classes 9 and 41 and designating United Kingdom, Japan, Republic of Korea, Russian Federation and United States of America.

The Complainant has an Internet presence through and holds the domain name <activematter.game>.

The disputed domain name <activemattermerch.shop> was registered on September 23, 2025. At the time of filing the Complaint, the disputed domain name was being used in connection with a website displaying unauthorized merchandise and offering goods that purported to be associated with ACTIVE MATTER. Screenshots provided by the Complainant show that the site featured ACTIVE MATTER screenshots, artwork, and logos, and presented itself as an officially licensed ACTIVE MATTER Merch Store.

Currently, unofficial attempts to access the disputed domain name result in the browser being unable to locate the site, displaying the message: "Safari can't open the page because the server can't be found".

Lastly, the Respondent is identified as Luong Van Thanh, located in Viet Nam. No evidence has been submitted by the Respondent to demonstrate any business activities, trademark rights or legitimate interest in the disputed domain name.

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 confusingly similar to its ACTIVE MATTER trademarks, on which the Complainant has prior rights.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the Respondent is not related in any way to the Complainant. The Complainant has not authorized or licensed the Respondent to use its ACTIVE MATTER trademarks or to register any domain name incorporating similar elements.

Moreover, the Complainant contends that the disputed domain name was registered and is being used in bad faith, as it has been used to offer merchandise purportedly associated with the ACTIVE MATTER video game without authorization. According to the Complainant, such use is intended to create confusion among Internet users as to the source, sponsorship, affiliation, or endorsement of the website and to take unfair advantage of the reputation and goodwill associated with the ACTIVE MATTER trademark.

Finally, the Complainant requests the Panel appointed in this administrative proceeding that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- i. the disputed domain name is identical or confusingly similar with 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 was 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.

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 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. Disregarding the Top-Level Domain ".shop", in accordance with section 1.11.1 of the [WIPO Overview 3.0](#), the only difference between the Complainant's registered trademarks and the disputed domain name is the addition of the element "merch".

It is well established in prior UDRP decisions that the mere addition of a term (whether descriptive, non-distinctive, or otherwise) to a complainant's mark does not avoid a finding of confusing similarity, where the relevant trademark is recognizable within the disputed domain name. Although the addition of other terms (here, the term "merch") may bear on assessment of the second and third elements, the Panel finds that 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.

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.

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 Complainant has claimed not to have authorized, licensed, or otherwise permitted the Respondent to register or use the disputed domain name or to use any of the Complainant's ACTIVE MATTER trademark in any manner. There is no evidence in the record suggesting that the Respondent has, or could have, any rights or legitimate interests in the disputed domain name. Moreover, the Complainant holds prior rights in its trademarks—which have been registered and used years before the Respondent registered the disputed domain name.

In addition, the Respondent is not identified as "Active Matter" but as "Luong Van Thanh". This discrepancy reinforces that the Respondent is not commonly known by the disputed domain name. Consistent with prior UDRP decisions, panels have held that a respondent is less likely to be considered "commonly known" by a domain name when the registrant information does not correspond to it.

The Panel considers that the composition of the disputed domain name carries a risk of implied affiliation. In the present case, the disputed domain name incorporates the Complainant's ACTIVE MATTER trademark in its entirety, with the mere addition of the term "merch", a commonly used abbreviation for "merchandise". Such addition does not confer any distinctiveness on the disputed domain name. On the contrary, it increases the likelihood of confusion by suggesting an official or authorized merchandise platform related to the ACTIVE MATTER video game. Given the nature of the Complainant's business and the close connection between video games and official merchandise, Internet users are likely to believe that the disputed domain name is affiliated with, sponsored by, or endorsed by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Likewise, it does not appear that the Respondent has made or is making any legitimate noncommercial or fair use of the disputed domain name. In this regard, the record shows that the disputed domain name has been used to advertise and sell merchandise purportedly associated with the ACTIVE MATTER video game, without any authorization from the Complainant. The Respondent has no trademark rights in the ACTIVE MATTER name, is not commonly known by the disputed domain name, and has not been licensed or otherwise permitted to use the Complainant's trademark. Moreover, the use of the disputed domain name to offer unauthorized merchandise, reproduce copyrighted assets from the video game, and claim an official licensing relationship with the Complainant constitutes commercial use and impersonation, which does not give rise to rights or legitimate interests. [WIPO Overview 3.0](#), sections 2.5.3 and 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.

The Panel finds that by registering the disputed domain name, the Respondent has targeted the Complainant's trademark by reproducing it in its entirety, with the mere addition of the element "merch", a common abbreviation for "merchandise". This addition does not create any distinctiveness. On the contrary, it reinforces the misleading impression that the disputed domain name is an official or authorized online store offering merchandise related to the ACTIVE MATTER video game. Given the close association between video games and official merchandising, Internet users are likely to believe that the disputed domain name is

a derivative or specialized platform operated, sponsored, or endorsed by the Complainant, thereby increasing the likelihood of confusion and evidencing the Respondent's intent to capitalize on the Complainant's reputation. Therefore, the Panel is satisfied that the Respondent must have been aware of the Complainant and its ACTIVE MATTER trademarks when registering the disputed domain name.

The Panel also notes that the disputed domain name is likely to attract Internet users seeking official merchandise or information related to the Complainant's ACTIVE MATTER video game, thereby creating a likelihood of confusion for commercial gain under paragraph 4(b)(iv) of the Policy. The near identity between the disputed domain name and the Complainant's ACTIVE MATTER trademark, combined with the addition of the descriptive term "merch", supports an inference that the Respondent intentionally sought to divert Internet traffic intended for the Complainant by giving the false impression that the website is an official or authorized merchandise platform associated with the Complainant.

Furthermore, the disputed domain name currently resolves to an inactive page. Panels have consistently held that the non-use of a domain name (including a blank or inaccessible page) does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of 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 <activemattermerch.shop> be transferred to the Complainant.

*/Iris Quadrio/
Iris Quadrio
Sole Panelist
Date: January 7, 2026*