ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION

tonies GmbH v. Archie H Moore, Archie H Moore
Case No. D2026-0994

1. The Parties

The Complainant is tonies GmbH, Germany, represented by Clayton Utz, Australia.

The Respondent is Archie H Moore, Archie H Moore, Germany.

2. The Domain Name and Registrar

The disputed domain name <toniesaustralia.com> is registered with Name SRS AB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 7, 2026. On March 9, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 10, 2026, 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 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 11, 2026. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 1, 2026.

The Center appointed Torsten Bettinger as the sole panelist in this matter on April 9, 2026. 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 forms part of the tonies corporate group, whose parent company, tonies SE (Luxembourg), develops and markets children's audio products, including the Toniebox and associated Tonie" figurines. The group operates internationally, having sold over 10 million Tonieboxes and approximately 134 million Tonies worldwide. The TONIES brand expanded into Australia and New Zealand in August 2024, which has been reported as its most successful market entry to date. In that region, the group operates inter alia through its subsidiary tonies ANZ Pty Ltd. Official Tonies products are widely distributed through an extensive retail network across Australia and New Zealand, comprising at least approximately 1,075 physical store locations.

The Complainant is the owner of the following registered trademarks in Australia and New Zealand, which claim a broad range of goods:

- Australian Trademark Registration No. 2442072 for TONIES in classes 3, 8, 9, 11, 15, 16, 18, 20, 21, 24, 25, 27, and 28, registered from February 21, 2024;

- Australian Trademark Registration No. 2074251 for TONIES in class 28, registered from March 7, 2020; and

- New Zealand Trademark Registration No. 1261469 for TONIES in classes 3, 8, 9, 11, 15, 16, 18, 20, 21, 24, 25, 27, and 28, registered on September 2, 2025.

The Complainant, through the tonies corporate group, operates its principal website at "www.tonies.com", including localized website for Australia ("au.tonies.com").

The disputed domain name was registered on September 20, 2025. It resolves to a website purporting to operate an online retail store offering Tonieboxes and Tonies. This website reproduces the Complainant's TONIES trademark and extensively uses images and product photographs copied from the Complainant's official websites without authorization.

5. Parties' Contentions

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

With regard to the requirement of "identity or confusing similarity between the trademark and the domain name" pursuant to paragraph 4(a)(i) of the Policy, the Complainant contends that:

- the disputed domain name is confusingly similar to its TONIES trademark, as they incorporate the mark in its entirety;
- the additional term "australia" is merely descriptive geographic identifiers which does not avoid a finding of confusing similarity under the Policy; and
- the inclusion of such geographic term is insufficient to distinguish the disputed domain name from its mark and, on the contrary, may increase the likelihood of confusion by suggesting an official regional website or authorized presence of the Complainant in this jurisdiction.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submitted that:

- it has not licensed, authorized, or otherwise permitted the Respondent to use its TONIES trademark, and that the Respondent is not affiliated with the Complainant in any way;
- the Respondent has not used the disputed domain name in connection with any bona fide offering of goods or services, rather, the disputed domain name has been used to operate fraudulent websites

purporting to sell the Complainant's products, reproducing the Complainant's trademark and copying product images from its official websites without authorization, with the apparent aim of diverting Internet traffic and misleading consumers for commercial gain;
- the Respondent is not commonly known by the disputed domain name, has sought to conceal its identity, and has no connection to the Complainant or its business; and
- the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name, but rather are using them for deceptive and fraudulent purposes.

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant argues that:

- the Respondent registered and is using the disputed domain name in bad faith, with the intention of attracting Internet users for commercial gain by creating a likelihood of confusion with the Complainant's TONIES trademark;
- the Respondent had actual knowledge of its rights prior to registration of the disputed domain name, noting that its trademark registrations and regional website in Australia predates the registration of the disputed domain name;
- given that "Tonies" has no generic meaning and that the Respondent copied images and content from the Complainant's official websites, the disputed domain name was clearly chosen with its mark in mind;
- the Respondent used the disputed domain name to operate fraudulent websites impersonating the Complainant, reproducing its trademark, product images, and naming conventions to mislead consumers; and
- the Respondent's concealment of identity supports a finding of bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three following elements:

(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 Select UDRP Questions ("WIPO Overview 3.1"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview 3.1, section 1.2.1.

The disputed domain name incorporates the Complainant's TONIES mark in its entirety, which is clearly recognizable within the disputed domain name.

The addition of the term "australia" does not prevent a finding of confusing similarity. This term is merely a geographic descriptor and, as such, does not distinguish the disputed domain name from the Complainant's mark.

Accordingly, 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 3.1, 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 Panel notes that the Complainant has not authorized, licensed, or otherwise permitted the Respondent to use its TONIES trademark. There is no evidence on the record that the Respondent is affiliated with the Complainant or has been commonly known by the disputed domain name.

Further, the evidence shows that the disputed domain name has been used to resolve to a website purporting to offer Tonieboxes and Tonies for sale, while reproducing the Complainant's trademark and product images without authorization. Such use, which appears to impersonate the Complainant and mislead Internet users, cannot constitute a bona fide offering of goods or services within the meaning of the Policy.

Nor does the Panel find any evidence of legitimate noncommercial or fair use. On the contrary, the Respondent's use of the disputed domain name appears intended to create a false impression of affiliation with the Complainant for commercial gain. The evidence provided by the Complainant shows that a number of customers purchased products from the website at the disputed domain name because they believed it was the Complainant's website, but they had never received these products.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

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.

In the present case, the Panel finds that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

On the record, the Panel is satisfied that the Respondent was aware of the Complainant and its TONIES trademark at the time of registration. The mark is distinctive and has no apparent generic meaning, and the disputed domain name combines the mark in its entirety with the geographic term "australia". The inclusion of the geographic term "australia" may reinforce an impression that the disputed domain name may be associated with the Complainant as it does business in Australia. In addition, the Respondent has reproduced the Complainant's trademark and product images on the corresponding website, which indicates

the Respondent's prior knowledge of the Complainant and its business. In these circumstances, the Panel finds it implausible that the disputed domain name was registered without the Complainant in mind.

The evidence further shows that the disputed domain name has been used to resolve to a website purporting to offer the Complainant's products for sale, while reproducing the Complainant's trademark and copyrighted materials without authorization. Such use is calculated to mislead Internet users into believing that the website is operated or endorsed by the Complainant.

In the Panel's view, this conduct constitutes an intentional attempt 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 source, sponsorship, affiliation, or endorsement, within the meaning of paragraph 4(b)(iv) of the Policy.

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

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 <toniesaustralia.com> be transferred to the Complainant.

/Torsten Bettinger/
Torsten Bettinger
Sole Panelist
Date: April 23, 2026