

ADMINISTRATIVE PANEL DECISION

Toromont Industries Ltd. v. Johnathan Chu
Case No. D2026-1961

1. The Parties

The Complainant is Toromont Industries Ltd., Canada, represented by ZeroFox, United States of America.

The Respondent is Johnathan Chu, Canada.

2. The Domain Name and Registrar

The disputed domain name <toromontrentals.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 May 6, 2026 regarding two disputed domain names. On May 7, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 8, 2026, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Registrant Not Disclosed / Registration Private, Domains By Proxy, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on May 12, 2026 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amendment to the Complaint on May 19, 2026.

One of the underlying registrants sent an email communication on May 19, 2026, expressing its willingness to settle. The Center sent the email regarding possible settlement on the same day. The proceeding was suspended on June 1, 2026, following Complainant’s confirmation of pursuing settlement. On July 21, 2026, the proceeding was dismissed with respect to this disputed domain name following the Complainant’s confirmation regarding settlement implementation. The proceeding was reinstituted on the same day. The Complainant was requested to submit an amended Complaint for only the remaining disputed domain name <toromontrentals.com>. The Complainant submitted an amended Complaint and amendment to the Complaint on July 27, 2026.

The Center verified that the Complaint together with the amended Complaint and 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 July 28, 2026. In accordance with the Rules, paragraph 5, the due date for Response was August 17, 2026. The Respondent did not submit a formal response. Accordingly, the Center notified the commencement of panel appointment process on August 21, 2026.

The Center appointed Eric Macramalla as the sole panelist in this matter on August 26, 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 is a publicly traded Canadian corporation (TSX: TIH) headquartered in Concord, Ontario. Founded in 1961, the Complainant has used the TOROMONT trademark continuously for over sixty years in connection with the sale, rental, and servicing of heavy industrial and construction equipment across Canada and internationally.

The Complainant is the owner of numerous trademark registrations comprised of, or containing, TOROMONT (the “TOROMONT Trademarks”), including the following:

(a) TOROMONT REMAN, Canadian Registration No. TMA1381799 filed for use in association with Classes 7 and 37, and registered on January 30, 2026.

(b) TOROMONT SMART CONDENSE, Canadian Registration No. TMA1308092 filed for use in association with Class 9, and registered on April 23, 2025.

(c) TOROMONT SMART HUB, Canadian Registration No. TMA1308091 filed for use in association with Class 9, and registered on April 23, 2025.

The TOROMONT trademark is a coined term.

The Complainant claims it is the owner of common law trademark rights in TOROMONT by virtue of use over sixty years.

The Complainant has operated the websites located at “www.toromont.com” and “www.toromontcat.com”, with the corresponding domain names respectively registered on May 30, 1995 and September 21, 1999.

The disputed domain name was registered on November 4, 2024 and directs to a Registrar landing page.

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.

The Complainant has alleged that the disputed domain name is confusingly similar to the TOROMONT Trademarks in which it has rights. The Respondent has incorporated the whole of the TOROMONT trademark in the disputed domain name.

The Respondent has no rights or legitimate interests in the disputed domain name as contemplated by paragraph 4(c) of the Policy. The Complainant has not authorized the Respondent to use the TOROMONT Trademarks and is not otherwise connected to the Respondent. The Respondent's activities do not constitute a bona fide offering of goods or services, the Respondent is not commonly known by the disputed domain name, and that the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name.

The disputed domain name was registered and is being used in bad faith as per paragraph 4(a)(iii) of the Policy.

B. Respondent

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

6. Discussion and Findings

As per paragraph 4(a) of the Policy, to succeed a complainant must establish the following:

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

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel deems applicable.

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 established rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1. The Complainant has established rights in the TOROMONT Trademarks in light of its Canadian trademark registrations.

The disputed domain name incorporates the distinctive "toromont" element of the TOROMONT Trademarks, which is plainly recognizable within the disputed domain name; the addition of the term "rentals" does not prevent a finding of confusing similarity. [WIPO Overview 3.1](#), sections 1.7 and 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 that 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, on a balance of probabilities, that 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 not authorized, licensed, or otherwise permitted, the Respondent to use the TOROMONT Trademarks in any manner, including as part of a domain name. There is also no evidence that the Respondent is commonly known by the disputed domain name. There is also no basis to conclude that the Respondent is making legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. There is also no evidence that the Respondent has used, or made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

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.

While paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, other circumstances may also be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.1](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not by itself prevent a finding of bad faith under the doctrine of passive holding. To the contrary, in looking at the totality of circumstances in each case, panels have found that the registration and non-use of a domain name can still constitute bad faith for purposes of the Policy. [WIPO Overview 3.1](#), section 3.3.

The Panel is satisfied the Complainant has established common law trademark rights that predate the disputed domain name registration date.

The Panel finds that the disputed domain name, if ever put to use, is likely to cause confusion among Internet users as to the source, affiliation, or sponsorship of the disputed domain name. Having considered the reputation or distinctiveness of the Complainant’s trademark, and the composition of the disputed domain name, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of bad faith under the circumstances of this case. The disputed domain name incorporates the term “rentals”,

which is clearly intended to create a false association with the Complainant, which offers, in part, industrial and construction equipment rental services.

Furthermore, the Panel concludes that the Respondent knew, or should have known, that the disputed domain name was likely to be confused with the TOROMONT Trademarks. The Panel also finds that the Respondent's non-use of the disputed domain name supports a finding of bad faith.

Therefore, having reviewed the record, the Panel finds that the 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 paragraph 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <toromontrentals.com> be transferred to the Complainant.

/Eric Macramalla/

Eric Macramalla

Sole Panelist

Date: September 9, 2026