

## ADMINISTRATIVE PANEL DECISION

Etsy, Inc. v. Chen Junbin  
Case No. DAI2024-0077

### 1. The Parties

The Complainant is Etsy, Inc., United States of America ("U.S."), represented by Fross Zelnick Lehrman & Zissu, PC, U.S.

The Respondent is Chen Junbin, China.

### 2. The Domain Name and Registrar

The disputed domain name <etsyshop.ai> 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 December 11, 2024. On December 12, 2024, 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 (Domains by Proxy, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on December 13, 2024, 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 December 18, 2024.

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 December 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 9, 2025. The Respondent submit an informal communication on December 23, 2024, but did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on January 15, 2025.

The Center appointed Alfred Meijboom as the sole panelist in this matter on January 17, 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**

The Complainant is a global online marketplace for unique and creative goods with over 100 million listings that are crafted and curated by the Complainant's sellers.

The Complainant owns numerous trademark registrations for the ETSY trademark in connection with online retail store services and related goods and services, including:

- U.S. trademark ETSY with registration number 3180068, registered on December 5, 2006 for services in class 35;
- International trademark ETSY with registration number 912704, registered on August 2, 2006, designating, inter alia, China, the European Union and Japan, for services in class 35.

The disputed domain name was registered on June 16, 2023, and resolves to a website which promotes services it purportedly provides to existing and prospective ETSY sellers, allegedly helping them to identify the best-selling goods on the ETSY platform and promote their listings.

#### **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 Complainant's ETSY trademark, as the disputed domain name incorporates the Complainant's ETSY trademark in its entirety as the primary term in the disputed domain name and adding only the non-distinctive term "shop", which describes the Respondent's purported services as well as the Complainant's own services at the ETSY marketplace.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name because the Complainant has never authorized the Respondent to use the Complainant's ETSY trademarks, or any marks confusingly similar thereto, for any purpose, including as a domain name, the renown of the Complainant's ETSY trademark evidences the absence of likely legitimate uses by an unauthorized party like the Respondent, the Respondent's website trades on the recognition of the Complainant's ETSY trademark and as such could not constitute a bona fide use, and the Respondent's website does not include a sufficient disclaimer but mere states at the bottom of the webpage "The term 'Etsy' is a trademark of Etsy, Inc.".

The Complainant further alleges that the Respondent registered the disputed domain name in bad faith because the Respondent's adoption and use of the ETSY trademark in the disputed domain name, the use on the associated website of the Complainant's E logo, the use of the Respondent's own stylized E mark, and the shade of orange associated with the Complainant, and for a website that purports to offer a companion service for sellers on the ETSY marketplace, which services the Complainant contends to inherently violate its different terms and conditions, show both the Respondent's familiarity with the Complainant's ETSY trademark and the Respondent's recognition of the renown of the ETSY trademark. The Complainant also alleges that there is no basis for the Respondent to have chosen the disputed domain

name unless the Respondent was seeking to create an association with the Complainant and the online shopping marketplace it operates.

In addition, the Complainant alleges that the Respondent's activity is in direct violation of paragraph 4(b)(iv) of the Policy, which prohibits use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to a website by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. According to the Complainant, because the disputed domain name and associated website so clearly reference the Complainant's marketplace, Internet users are likely to believe, mistakenly, that the disputed domain name is owned by, related to, or associated with the Complainant. Because the ultimate effect of the Respondent's use of the disputed domain name will be to cause confusion with the Complainant, the Complainant considers the use and registration of the disputed domain name to be in bad faith.

## **B. Respondent**

The Respondent did not formally reply to the Complainant's contentions. Nonetheless, on December 23, 2024, the Respondent sent an email to the Center which read "We guarantee that we will no longer use this domain name".

## **6. Discussion and Findings**

The Respondent did not file a formal Response. However, as set out in section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the Respondent's default does not automatically result in a decision in favor of the Complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from the Respondent's default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in these proceedings. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the Panel shall draw such inferences, as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.

Under the Policy, the Complainant must prove that:

- the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- 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 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 Complainant's ETSY trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the ETSY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms and element, in this case of "shop", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing

similarity between the disputed domain name and the Complainant's ETSY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Consequently, 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.

As the disputed domain name resolves to a website which seems to promote services to existing and prospective ETSY sellers, allegedly helping them to identify the best-selling goods on the ETSY platform and promote their listings, the Panel first needs to decide if the Respondent (could have) made a bona fide offering of services via the disputed domain name and if the criteria of *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), which panels commonly apply in matters of resale, were met. Under this Oki Data test, the following cumulative requirements apply (see also section 2.8 of [WIPO Overview 3.0](#)):

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark, thus depriving the trademark owner of the ability to reflect its own mark in a domain name.

The evidence submitted by the Complainant shows that the Respondent's website does not disclose its relationship with the Complainant, as a text at the bottom of the webpage reading "The term 'Etsy' is a trademark of Etsy, Inc. This application uses the Etsy API but is not endorsed or certified by Etsy, Inc."

This text is in small letters and at the bottom of the page, in the Panel's view, it cannot be considered a prominent disclosure of the Parties' relationship, and does not take away the likelihood that an Internet user may be confused in believing that the website associated with the disputed domain name is endorsed by and/or associated with the Complainant. The Panel is therefore satisfied that the Respondent failed the *Oki Data* test.

The Panel takes further note of the various allegations of the Complainant and in particular that the Complainant never authorized the Respondent to use the Complainant's ETSY trademarks, or any marks confusingly similar thereto, to register the disputed domain name, and the disputed domain name resolves to a website that creates confusion as to the source, sponsorship, affiliation or endorsement of the Respondent's website, which does not constitute use of the disputed domain name in connection with a bona fide offering of 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.

In the present case, the Panel notes that the Complainant's ETSY trademark was registered several decades before the registration of the disputed domain name, and that the disputed domain name was used to resolve to a website which not only purportedly offers services which relates to the Complainant's online marketplace, but also uses the Complainant's trademarks and color scheme on the website, from which the Panel infers that it is likely that the Respondent targeted the Complainant's ETSY trademark when it registered the disputed domain name, and must therefore have been aware of the Complainant's ETSY trademark at that time. [WIPO Overview 3.0](#), section 3.2.2.

Further, the Panel is satisfied that the Respondent's use of the disputed domain name in connection to offering purported services in connection to the Complainant's ETSY platform, without at least accurately and prominently disclosing the Respondent's relationship with the Complainant constitutes an intentional attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the ETSY trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and the services offered on the Respondent's website. The Panel is therefore satisfied that the Complainant showed that the Respondent used the disputed domain name in bad faith as meant in paragraph 4(b)(iv) of the Policy.

The Panel therefore 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 <etsyshop.ai> be transferred to the Complainant.

*/Alfred Meijboom/*

**Alfred Meijboom**

Sole Panelist

Date: January 31, 2025