

ADMINISTRATIVE PANEL DECISION

Disney Enterprises, Inc. v. Herry Johnson
Case No. DIO2022-0002

1. The Parties

The Complainant is Disney Enterprises, Inc., United States of America (hereinafter, “Complainant”), represented Wang Law Corporation, United States of America.

The Respondent is Herry Johnson, United States of America (hereinafter, “Respondent”).

2. The Domain Name and Registrar

The disputed domain name <versedisney.io> is registered with NetEarth One Inc. d/b/a NetEarth (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 8, 2022. On February 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 16, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on February 16, 2022, 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 February 17, 2022.

The Center verified that the Complaint together with the amended Complaint (hereinafter, “the Complaint”) satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 February 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 17, 2022.

The Center appointed M. Scott Donahey as the sole panelist in this matter on March 24, 2022. 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

Complainant and/or its affiliated companies have been the owners of the trademark DISNEY in the United States and around the world from at least as early as January 1979. Complaint, Annexes 3, 4 and 5. Complainant is a worldwide leading producer of children's entertainment goods and service, such as movies, television programs, books videogames, and merchandise. Complainant has also registered numerous domain names which include and incorporate the DISNEY mark. Complaint, Annex 5. Children and adults around the world recognize the DISNEY name and mark and associate it with Complainant, and numerous domain name decisions have recognized the fame of the DISNEY mark around the world. Numerous domain name decisions have recognized the fame of and applied the Uniform Domain Name Dispute Resolution Procedures to uphold the validity of the mark and its applicability in domain name dispute.

Respondent registered the disputed domain name on January 17, 2022. Complaint, Annex 1. The disputed domain name consists of the famous DISNEY mark preceded by the English word "verse," and is similar to Complainant's registered domain name <disneyverse.io> domain name.

Respondent has been using the disputed domain name to resolve to a website. The website invites users to login and provide personal information. The web site includes names and images which are associated with Complainant. Complaint, Annex 6.

5. Parties' Contentions

A. Complainant

Complainant asserts that the disputed domain name is confusingly similar to Complainant's registered trademark. Complainant contends that Respondent has no right or legitimate interests in respect of the disputed domain name. Complainant argues that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy directs that the complainant must prove each of the following:

- (i) that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and,
- (ii) that the respondent has no rights or legitimate interests in respect of the domain name; and,
- (iii) that the domain name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name consists of the famous DISNEY trademark and the English word “verse.” Complainant uses the word “verse” in its role-playing game Disney Mirrorverse, and the Disney registered domain name <disneymirrorverse.com>. In addition, Complainant has registered the domain name <disneyverse.io>, which is the same words in the disputed domain name, but which Respondent has reversed. Accordingly, the Panel finds that the disputed domain name is confusingly similar to Complainant’s trademark.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the almost impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 2.1.

In the present case Complainant alleges that Respondent has no rights or legitimate interests in respect of the disputed domain name and Respondent has failed to assert any such rights (leaving Complainant’s *prima facie* case un rebutted). Accordingly, the Panel finds that Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered or Used in Bad Faith

Respondent is using the disputed domain name to resolve to a website which suggests that it is one of Complainant’s websites and which requests users to provide personal information. Given the composition of the disputed domain name, its use, and that Complainant is a trusted company which primarily appeals to children, this is clearly an act 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 <versedisney.io>, be transferred to Complainant.

/M. Scott Donahey/

M. Scott Donahey

Sole Panelist

Date: March 28, 2022