

ADMINISTRATIVE PANEL DECISION

ContextLogic Inc. v. JACK zhu

Case No. DIO2023-0018

1. The Parties

Complainant is ContextLogic Inc., United States of America (“U.S.”), represented Barnes & Thornburg, U.S.

Respondent is JACK zhu, U.S.

2. The Domain Name and Registrar

The disputed domain name <wishx.io> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 5, 2023. On June 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 7, 2023, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to Complainant on June 7, 2023, 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 the same day.

The Center verified that the Complaint together with the amended 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 June 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 4, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 10, 2023.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on July 13, 2023. 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 is the owner and operator of a large e-commerce platform, available via “www.wish.com” and the WISH mobile application, among other businesses. In 2019, Forbes described the WISH platform as the third-biggest e-commerce marketplace in the U.S. by sales.¹

Complainant owns many registrations in the U.S. and globally for its WISH family of trademarks, including for example U.S. Registration No. 4,340,974, registered May 28, 2013 in International Class 35 and U.S. Registration No. 6,142,756, registered September 1, 2020 in International classes 9, 38 and 42.

The disputed domain name was registered on December 21, 2021 and does not currently resolve to an active webpage.

5. Parties’ Contentions

A. Complainant

Complainant alleges that Respondent is using Complainant’s trademarks without authorization to market similar categories of products to those marketed by Complainant, by routing users to a website that prominently shows Complainant’s registered WISH trademarks and purports to offer services identical to Complainant’s services.

Annexes to the Complaint show that on May 17, 2023, the disputed domain name resolved to a website that (1) prominently displayed Complainant’s registered WISH trademark, (2) offered an e-commerce marketplace trading a variety of consumer products, and (3) listed Complainant’s corporate headquarters address in the contact information for the website.

Complainant also avers that Respondent contacted consumers, pretending to be an official account of Complainant.

Complainant further documents an instance of impersonation using the disputed domain name in e-messaging. Annexes show that in response to a customer inquiry, Respondent claims that <wishx.io> is a subsidiary of <wish.com> and states simply that “It’s just the URL is different”.

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is confusingly similar to Complainant’s WISH trademark, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered or is being used in bad faith, all in violation of the Policy.

Complainant seeks transfer.

B. Respondent

Respondent did not reply to Complainant’s contentions.

¹Olson, *Parmy, Meet The Billionaire Who Defied Amazon And Built Wish, The World's Most-Downloaded E-Commerce App*, *Forbes* (March 13, 2019) (visited July 24, 2023).

6. Discussion and Findings

The Panel notes that the .IO Domain Name Dispute Resolution Policy is substantially similar (though not identical) to the Uniform Domain Name Dispute Resolution Policy (the “UDRP”). Where appropriate, therefore, in this Decision, the Panel applies principles established in connection with the UDRP.

For Complainant to prevail under the Policy, it must be established that (1) the disputed domain name is identical or confusingly similar to Complainant’s WISH trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered or is being used in bad faith. Policy, paragraph 4(a).

The fact that Respondent has not provided any Response does not, by itself, mean that Complainant prevails. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.3. In the absence of a Response, however, the Panel may also accept as true reasonable factual allegations in the Complaint. See, e.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

A. Identical or Confusingly Similar

The Panel agrees with Complainant’s allegation that the disputed domain name is confusingly similar to Complainant’s WISH mark.

UDRP panels commonly disregard Top-Level Domains (“TLDs”) in determining whether a disputed domain name is identical or similar to a complainant’s marks. [WIPO Overview 3.0](#), section 1.11.1

Omitting the “.io” TLD from the disputed domain name, the Panel notes that the entire WISH mark is included in the disputed domain name, adding only the letter “x”. The Panel finds that the addition to Complainant’s WISH mark of this sole letter does not prevent a finding of confusing similarity. See *id.*, section 1.8 of [WIPO Overview 3.0](#) (where the relevant trademark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity).

The Panel finds that the disputed domain name is confusingly similar to Complainant’s mark. The first element of paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of rebuttal passes to the respondent. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response. *Id.*, (citing *De Agostini S.p.A. v. Marco Cialone*, WIPO Case No. [DTV2002-0005](#)).

The Panel accepts the Complaint's undisputed allegations that Respondent has no relevant trademark rights and has no authorization or license to use Complainant's trademark in the disputed domain name. The Panel also accepts the Complaint's averment that Respondent is not commonly known by the disputed domain name.

Complainant has provided credible evidence demonstrating that the website to which the disputed domain name routes prominently displayed Complainant's WISH trademark. The Panel accepts the Complaint's undisputed allegations that Respondent has no relevant trademark rights and has no authorization or license to use Complainant's trademarks in the disputed domain name, or to display Complainant's trademark.

Respondent has refrained from opposing Complainant's evidence of Respondent's unauthorized trademark use, impersonation and misrepresentations. The Panel finds that the disputed domain name has been used for such illegal activities. UDRP panels have categorically held that the use of a domain name for illegal activity can never confer rights or legitimate interests in a respondent. *E.g.*, [WIPO Overview 3.0](#), sections 2.13.1 and 2.13.2.

The Panel also finds that Respondent lacks rights or legitimate interests in the disputed domain name on the grounds that Respondent's use of the disputed domain name falsely suggests that Respondent is an affiliate of Complainant, the trademark owner. [WIPO Overview 3.0](#), section 2.5.

In light of the evidence and allegations submitted by Complainant, the Panel holds that Respondent is not making a legitimate or fair use of the disputed domain name and that Complainant establishes a *prima facie* case. Respondent has not opposed or rebutted that *prima facie* case.

Therefore, that the second element of Policy paragraph 4(a) is established.

C. Registered or Used in Bad Faith

Finally, while paragraph 4(a)(iii) of the .IO Policy requires Complainant to prove either bad faith registration or bad faith use, the Panel finds that the amended Complaint establishes both bad faith registration and bad faith use of the disputed domain name.

First, the Panel finds that a presumption of bad faith is created by Respondent's mere registration of a domain name which is confusingly similar to Complainant's well-known WISH trademark. [WIPO Overview 3.0](#), section 3.1.4. Respondent has submitted no evidence to contradict this presumption.

Second, the record shows that Respondent registered the disputed domain name long after Complainant perfected its trademark rights. The composition of the disputed domain name and its use to direct Internet users to a website designed to falsely represent Complainant's online operations make obvious that Respondent knew the nature of Complainant's business associated with its trademarks and targeted Complainant.

The Panel finds that Respondent launched a competing website that uses the confusingly similar disputed domain name and impersonates Complainant, even falsely stating that Complainant's contact address is its own. This clearly shows Respondent's intention to disrupt Complainant's business and constitutes bad faith registration and bad faith use under Policy paragraph 4(b)(iii).

Third, the use of the confusingly similar disputed domain name to promote Respondent's nearly identical commercial website is also clear evidence of bad faith registration and use under Policy paragraph 4(b)(iv) ("by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site [...] by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site [...] or of a product or service on your web site [...]").

Respondent's failure to submit a response to the Complaint and the failure to provide accurate contact details as required by the Registrar are further evidence of use in bad faith.² .

The Panel holds that Respondent has both registered and is using the disputed domain name in bad faith; therefore, the requirements of the third element under paragraph 4(a) of the Policy are also satisfied.

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 <wishx.io> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: July 27, 2023

²Notification of the Complaint to Respondent by courier was not possible using registrant address details provided by Respondent.