

Decision for dispute CAC-UDRP-105575

Case number	CAC-UDRP-105575
Time of filing	2023-06-28 10:09:54
Domain names	switcheo.org

Case administrator

Name	Olga Dvořáková (Case admin)
------	-----------------------------

Complainant

Organization	Switcheo Labs Pte Ltd
--------------	-----------------------

Respondent

Organization	Suspended Domain
--------------	------------------

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has provided evidence of ownership of the following trademark registrations:

- United States trademark registration No. 5958356 for SWITCHEO (word mark), filed on April 1, 2019 and registered on January 14, 2020, in international class 36;
- International trademark registration No. 1469936 for SWITCHEO (word mark), registered on April 1, 2019 in international class 36, designating amongst others European Union and Japan;
- Singapore trademark registration n. 40201905977Y for SWITCHEO (word mark), registered on March 21, 2019 in international class 36.

FACTUAL BACKGROUND

The Complainant in the present dispute is Switcheo Labs Pte Ltd, a software development company based in Singapore, specialized since 2018 in decentralized finance solutions.

The Complainant is the owner, amongst others, of the domain name <switcheo.com> registered on December 13, 2006 and used by the Complainant to promote its services under the trademark SWITCHEO.

The disputed domain name <switcheo.org> was registered on March 9, 2018

by the Complainant. The Respondent registered (according to the Registrar verification provided to the Center) on March 9, 2023. The disputed domain name currently resolves to a website where it is offered for sale at USD \$6,490 or lease to own starting from USD 397 per month.

PARTIES CONTENTIONS

COMPLAINANT

The Complainant contends that its company has been using the disputed domain name as part of its business since 2018 and that, due to a recent payment lapse to the concerned Registrar, the disputed domain name was recently deleted and re-registered by the Respondent.

The Complainant submits that the Respondent is infringing its rights as it registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the Complainant, which is the owner of the trademark SWITCHEO, or to a competitor, for valuable consideration in excess of the Complainant's documented out-of-pocket costs directly related to the disputed domain name.

The Complainant informs the Panel that it sent an email to the Respondent, on June 8, 2023, requesting that it transfer the disputed domain name back to the Complainant within 14 days, with an offer of USD 200 to offset the time and fees paid by the Respondent for the disputed domain name, but has not yet received any response.

RESPONDENT

No administratively compliant response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. The Panel finds that the Complainant has established rights over the trademark SWITCHEO based on the trademark registrations cited above and the related trademark certificates submitted as annexes to the Complaint.

The Panel notes that the disputed domain name is identical to the Complainant's trademark SWITCHEO as it reproduces the trademark in its entirety with the mere addition of the generic TLD ".org", which can be disregarded for the purpose of assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy.

2. With reference to the Respondent's rights or legitimate interests in the disputed domain name, the Panel finds that the Complainant has made a prima facie case and that the Respondent, by not submitting a Response, has failed to provide any element from which a Respondent's right or legitimate interest in the disputed domain name could be inferred.

As highlighted above, the disputed domain name, identical to the Complainant's trademark, has been pointed to a web page in which the disputed domain name is being offered for sale. The Panel finds that the Respondent's use does not amount to a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name without intention to misleadingly divert the consumers or to tarnish the Complainant's trademark.

3. As to bad faith at the time of the registration, the Panel finds that, in light of the prior use of the Complainant's trademark

SWITCHEO in connection with the Complainant's software development services, promoted online via the website "www.switcheo.com", and considering that the disputed domain name initially belonged to the Complainant (as also highlighted by the historical screenshots publicly available on the Internet Archive "www.archive.org"), the Respondent was very likely aware of the Complainant's trademark at the time of registration.

In view of the identity of the disputed domain name with Complainant's trademark and considering that the disputed domain name is redirected to a website where it is offered for sale at USD \$6,490 or lease to own starting from USD \$397 per month, the Panel finds that the Respondent likely acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant which is the owner of the corresponding trademark for valuable consideration in excess of the out-of-pocket costs directly related to the domain name according to paragraph 4(b)(i) of the Policy.

The Panel also finds that the Respondent intentionally attempted to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its website according to paragraph 4(b)(iv) of the Policy.

As an additional circumstance evidencing the Respondent's bad faith, it failed to reply to the Complainant's notice of trademark infringement and to file a Response in this proceeding.

Therefore, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **switcheo.org**: Transferred

PANELLISTS

Name	Luca Barbero
------	---------------------

DATE OF PANEL DECISION **2023-08-09**

Publish the Decision
