

Decision for dispute CAC-UDRP-105775

Case number **CAC-UDRP-105775**

Time of filing **2023-09-14 10:38:14**

Domain names **woobles.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **Low Tech Toy Club, LLC dba The Woobles**

Complainant representative

Organization **Stobbs IP**

Respondent

Name **Nanci Nette**

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

According to the evidence submitted by Complainant, Complainant is the owner of the Trademark THE WOOBLES, registered with the United States Patent and Trademark Office, serial number 90041769 and registration date 9 February 2021.

FACTUAL BACKGROUND

According to the information provided by the registrar the disputed domain name <woobles.com> was first created on 13 April 2023 and acquired by Respondent on 24 May 2023.

According to the information provided by Complainant the disputed domain name currently resolves to a pay-per-click parking website; previously it redirected to a website with malware.

PARTIES CONTENTIONS

COMPLAINANT:

According to the information submitted by Complainant, Complainant is an educational consumer goods company that has revolutionized an industry which inspires people of all ages with the confidence of learning a new skill to crochet. Complainant's beginner pre-made kits combine everything needed with digital tutorials to create a seamless experience for first-time crocheters. Complainant was formed in 2019 with the simple belief that the company could make beginner crochet kits more accessible. Complainant has an active online presence including owning the domain name <thewoobles.com> which is used as Complainant's main operating website.

Complainant submits that the disputed domain name is confusingly similar to Complainant's trademark. According to Complainant the disputed domain name contains Complainant's registered trademark as the dominant element, without the non-distinctive term "the". This does nothing to alter the overall impression in the eyes of the average Internet user.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Respondent has never legitimately been known by the disputed domain name at any point in time. Complainant submits that the disputed domain name currently resolves to a pay-per-click webpage with advertisements and links to goods and services relating to Complainant's registered trademark. According to Complainant Respondent previously used the disputed domain name to redirect users to a website which immediately downloads malware. Using domain names for illegal activity (in this case the distribution of malware via impersonation of Complainant) is high evidence of illegitimate intent. Therefore, Respondent is not using the domain name in connection with a *bona fide* offering of goods or services.

According to Complainant the disputed domain name is registered and is being used in bad faith. The disputed domain name was registered in bad faith, as Respondent clearly knew about the Complainant's earlier rights in the trademark THE WOOBLES. Complainant reiterates that Complainant's trademark pre-dates the registration by Complainant of the disputed domain name. Respondent was unequivocally aware of Complainant's trademark given Respondent's registration and use of the disputed domain name to perpetrate the distribution of malware on unsuspecting Internet users, impersonating Complainant by using Complainant's trademark. Complainant also submits that Respondent has engaged in a pattern of bad faith registration and use cases in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name. This has been recognized against Respondent in over ten domain name decisions.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark THE WOOBLES. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant's trademark where the relevant

trademark is recognizable within the disputed domain name. Complainant has established that it is the owner of a trademark registration for THE WOOBLES. The disputed domain name incorporates the major part of the trademark as its distinctive element. The deletion of the word “the” of the trademark in the disputed domain name, is insufficient to avoid a finding of confusing similarity as the WOOBLES part of the trademark remains the dominant component of the disputed domain name.
The Top-Level Domain (“gTLD”) “.com” in the disputed domain name may be disregarded.
The Panel notes that Complainant’s registration of its trademark predates the date Respondent acquired the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. The current pay-per-click use of the disputed domain name does not represent a bona offering of goods or services, nor does the previous use to redirect Internet users to a website with malware. Respondent did not submit any response. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the THE WOOBLES trademark. Respondent knew or should have known that the disputed domain name included the major part of Complainant’s mark.
The Panel notes the undisputed submission of Complainant supported by evidence that Respondent is a serial cybersquatter, with over 10 domain name decisions against Respondent.

The Panel finally notes that the disputed domain name incorporates Complainant’s trademark in its entirety, which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **woobles.com**: Transferred

PANELLISTS

Name	Dinant T.L. Oosterbaan
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DATE OF PANEL DECISION 2023-10-12

Publish the Decision