

Decision for dispute CAC-UDRP-107184

Case number CAC-UDRP-107184

Time of filing 2024-12-18 10:25:34

Domain names instantpotpops.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization IB Appliances US Holdings, LLC

Complainant representative

Organization Stobbs IP

Respondent

Organization Wise Eyes Ent

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 demonstrated ownership of rights in the trademark INSTANT POT for the purposes of standing, to file a UDRP complaint.

The Complainant is the owner, amongst others, of the following trademark registrations for INSTANT POT:

- United States trademark registration No. 6291537 for INSTANT POT (word mark), filed on June 17, 2019, and registered on March 16, 2021, in international classes 7, 9, 11, 16, 17, 21, 25, 29, 30, 32, 35 and 38;

- United States trademark registration No. 6907251 for INSTANT POT (word mark), filed on May 16, 2017, and registered on November 22, 2022, in international classes 9, 11, 16, 21 and 25.

FACTUAL BACKGROUND

The Complainant is a company specialized in the production of cooking appliances, including the INSTANT POT multicooker, launched in 2008 and of which 215.000 units were sold on the "Amazon Prime Day" alone in 2016.

The Complainant is the owner of the domain name <instantpot.com>, registered on February 23, 2009, and used in connection with

the Complainant's principal website since as early as May 22, 2009.

The disputed domain name <instantpotpops.com> was registered on April 3, 2024, and currently resolves to an undeveloped website. However, according to the screenshots submitted by the Complainant, the disputed domain name resolved prior to the present proceeding to a website publishing the Complainant's trademark INSTANT POT and images of the Complainant's INSTANT POT electric pressure cooker along with a "Buy now" button. According to the screenshots saved by the Internet Archive at "www.archive.org", the website also displayed sponsored links advertising third-party products offered on the "www.amazon.com" website.

PARTIES CONTENTIONS

COMPLAINANT

The Complainant contends that the disputed domain name <instantpotpops.com> is confusingly similar to the trademark INSTANT POT, in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the non-distinctive term "pops" and the generic Top-Level Domain ("gTLD") ".com".

The Complainant also asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name because: i) the Respondent is not commonly known by the disputed domain name; and ii) the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services or a legitimate non-commercial or fair use, as the disputed domain name has been pointed to a website using the INSTANT POT electric pressure cooker get-up and trade dress and displaying sponsored links which offer products on the "www.amazon.com" website.

The Complainant claims that the Respondent registered the disputed domain name in bad faith since, considering the Complainant's INSTANT POT mark long predates the registration of the disputed domain name, the INSTANT POT widespread reputation and the Respondent's use of the INSTANT POT mark on the website to which the disputed domain name resolves, the Respondent was undoubtedly aware of the Complainant at the time of registering the disputed domain name.

The Complainant also submits that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website, 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.

RESPONDENT

No administratively compliant Response has been filed.

On January 14, 2025, the Respondent sent an informal communication to the Center, in which it claimed that though it had initially attempted to create an account on the website at the disputed domain name, it purportedly encountered an issue that prevented it from logging in, resulting in an "Account Not Found" error.

The Respondent further submitted that it never launched a website at the disputed domain name and had since removed the disputed domain name from its hosting account.

The Respondent further indicated that the suggestion to register the disputed domain came from its hosting provider though it had no intention of marketing or promoting any content related to INSTANT POT. It also stated that, as a senior citizen residing in a care facility and currently relying on public assistance, it is no longer actively engaged in any online activities.

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 Complainant has provided evidence of ownership of valid trademark registrations for INSTANT POT.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark INSTANT POT as it reproduces the trademark in its entirety with the mere addition of the non-distinctive term "pops", which is not sufficient to prevent a finding of confusing similarity.

As to the gTLD ".com", as established in a number of prior UDRP cases, it is viewed as a standard registration requirement and as such 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 has failed to provide any element from which rights or legitimate interests in the disputed domain name could be inferred.

The Panel notes that, based on the records, the Complainant has not authorized the Respondent to use its trademark INSTANT POT or to register and use the disputed domain name. Moreover, there is no evidence that the Respondent might be commonly known by the disputed domain name or a name corresponding to the disputed domain name.

As highlighted above, according to the screenshots submitted by the Complainant, the disputed domain name, currently redirecting to an undeveloped website, resolved prior to the present proceeding to an active website displaying the INSTANT POT mark and images of the INSTANT POT multicooker and a link "buy now". The Complainant also submitted that the website included links to the "www.amazon.com" website where third-party products were offered for sale. The Panel notes that the Complainant's claims about the prior use of the disputed domain name are corroborated by the screenshots saved by the Internet Archive "www.archive.org", including screenshots saved on December 23, 2024, i.e. after the filing of the Complaint.

In view of the content of the website to which the disputed domain name redirected, the Panel finds that users could have been misled as to the source or affiliation of the Respondent's website and the third-party products advertised therein, especially considering the lack of a disclaimer of non-affiliation with the Complainant. Therefore, the Panel finds that the Respondent, before receiving notice of the dispute, did not use the disputed domain name in connection with a bona fide offering of goods or services or a legitimate non-commercial or fair use.

In addition to the above, the Panel finds that the disputed domain name, reproducing the Complainant's INSTANT POT mark in its entirety with the mere addition of the non-distinctive element "pops", carries a high risk of implied affiliation with the Complainant.

Therefore, the Panel finds that the Complainant has demonstrated that the Respondent has no rights or legitimate interests in respect of the disputed domain name according to paragraph 4(a)(i) of the Policy.

3. As to bad faith at the time of the registration, the Panel finds that, in light of the Complainant's prior registration and use of the trademark INSTANT POT, promoted online via the Complainant's website "www.instantpot.com", and considering the widely known character of the trademark in the United States, where the Respondent is based, the Respondent was or could have been aware of the Complainant's trademark when it registered the disputed domain name in April 2024.

Moreover, considering the content of the website to which the disputed domain name resolved prior to the start of the proceeding, displaying the Complainant's INSTANT POT trademark and product images, the Panel finds that the Respondent was actually aware of, and intended to target, the Complainant and its trademark at the time of registration.

The Panel also notes that, by applying to register a domain name, according to paragraph 2 of the Policy, a registrant represents and warrants that the registration of the domain name will not infringe upon or otherwise violate the rights of any third party, and it is the registrant's responsibility to determine whether the domain name registration infringes or violates someone else's rights. Therefore, the Respondent – even if advised by a third party as asserted in its informal email communication – is directly responsible for its registration of the disputed domain name.

The Panel also finds that the Respondent's prior use of the disputed domain name, as shown by the evidence on record, in connection with a website displaying the Complainant's mark and images of the INSTANT POT electric pressure cooker and promoting the sale, via affiliate Amazon links, goods not manufactured or offered by the Complainant, amounts to bad faith under paragraph 4(b)(iv) of the Policy, since the Respondent, on balance of probabilities, 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 and the products advertised therein.

As indicated above, the disputed domain name is currently not pointed to an active website. As established in a number of prior

UDRP cases, the concept of “bad faith use” in paragraph 4(b) of the Policy includes not only positive action but also passive holding. In the present case, considering i) the distinctiveness of the Complainant’s trademark INSTANT POT, ii) the composition of the disputed domain name, which consists of the Complainant’s mark followed by the non-distinctive word “pop” and the similarity to the Complainant’s domain name <instantpot.com>; and iii) the Respondent’s failure to provide any evidence of actual or contemplated good-faith use, the Panel finds that the current passive holding of the disputed domain name does not prevent a finding of bad faith use.

Therefore, the Panel finds that the Complainant has also demonstrated that Respondent registered and is using the disputed domain name in bad faith according to paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **instantpotpops.com: Transferred**

PANELLISTS

Name	Luca Barbero
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DATE OF PANEL DECISION **2025-01-27**

Publish the Decision
