

ADMINISTRATIVE PANEL DECISION

Space Exploration Technologies Corp. dba SpaceX v. John Green
Case No. D2022-0797

1. The Parties

The Complainant is Space Exploration Technologies Corp. dba SpaceX, United States of America (“United States”), represented by Polsinelli PC, United States.

The Respondent is John Green, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <starlink-token.com> is registered with Eranet International Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 7, 2022. On March 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 11, 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 the Complainant on March 18, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 23, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 19, 2022.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on April 27, 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

The Complainant was founded in 2002 and is a manufacturer and provider of space transportation and communication services, having started using the STARLINK mark in connection with its communication services on 2020.

The Complainant is the owner of the following, amongst other, trademark applications and registrations throughout the world (Annex 5 to the Complaint):

- United States trademark registration No. 6,329,104 for STARLINK, registered on April 20, 2021, claiming first use on October 26, 2020, in class 9; and
- United States trademark registration No. 6,329,193 for STARLINK, registered on April 20, 2021, claiming first use on October 26, 2020, in class 38.

The Complainant has also registered domain names incorporating its STARLINK trademark, including <starlink.com>, which is used to transact business.

The disputed domain name <starlink-token.com> was registered on December 31, 2021, and presently does not resolve to an active webpage. The disputed domain name appears to have been used in connection with a fraudulent website purportedly providing the Complainant's goods/services and creating consumer confusion (Annexes 6 and 7 to the Complaint).

5. Parties' Contentions

A. Complainant

The Complainant asserts to have become the leading aerospace manufacturer, space transportation and communications company in the world, having prominently used its STARLINK trademark in connection with its communication services since 2020 through extensive sales and advertising. The high quality of the Complainant's products and services has generated substantial goodwill and customer recognition in the STARLINK trademark.

The Complainant further asserts that the Respondent registered the disputed domain name in order to impersonate its <starlink.com> domain name, targeting the Complainant's customers in a scheme to spoof and defraud.

Under the Complainant's view, the disputed domain name is confusingly similar to its well-known STARLINK trademark, only differing by the addition of the descriptive and non-distinctive term "token".

Moreover, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name given that:

- (i) the Respondent's sole interest in the disputed domain name is to abuse its similarity with the Complainant's well-known trademark for the purposes of engaging in a spoofing scheme and is therefore not using the disputed domain name in connection with a *bona fide* offering of goods or services relating to the disputed domain name within the meaning of paragraph 4(c)(i) of the Policy;

(ii) the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name; and

(iii) there is no indication that the Respondent is commonly known by the disputed domain name, not the disputed domain name deriving from the Respondent's name; also not having the Respondent ever been a representative of the Complainant or licensed to use the Complainant's STARLINK trademark.

Lastly, the Complainant contends that the disputed domain name was registered to capitalize on or otherwise take advantage of the Complainant's trademark in furtherance of a spoofing scheme sought to perpetrate on victims who believe the disputed domain name is associated with the Complainant. Therefore, the Respondent has registered and used the disputed domain name in bad faith under the Policy.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements are present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

A. Identical or Confusingly Similar

The Complainant has established rights in the registered STARLINK trademark.

It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7).

The Complainant's trademark is entirely reproduced in the disputed domain name and the addition of the term "token", in this Panel's point of view, does not prevent a finding of confusing similarity between the disputed domain name and the trademark.

The first element of the Policy has therefore been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that indicate a respondent's rights to or legitimate interests in a disputed domain name. These circumstances are:

(i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or

(iii) the respondent is 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 or service mark at issue.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make out a *prima facie* case against the Respondent.

In that sense, the Complainant indeed states that the Respondent has never been a representative of the Complainant or licensed to use the Complainant's STARLINK trademark.

Also, according to the evidence submitted by the Complainant, the disputed domain name appears to have been previously used in connection with a fraudulent website purportedly providing the Complainant's goods/services and creating consumer confusion, and is now inactive. Such use does not constitute a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name.

Also, the lack of evidence as to whether the Respondent is commonly known by the disputed domain name or the absence of any trademarks registered by the Respondent corresponding to the disputed domain name corroborates the absence of any rights or legitimate interests in the disputed domain name.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

The second element of the Policy has therefore been established.

C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b) that bad faith registration and use can be found in view of:

(i) circumstances indicating that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring it to the Complainant who is the owner of a trademark relating to the disputed domain name or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name; or

(ii) the Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The registration and use of the disputed domain name in bad faith can be found in the present case in view of the following circumstances:

- (i) the Complainant's prior registered trademark rights in STARLINK, and the STARLINK trademark is distinctive;
- (ii) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name;
- (iii) the previous use of the disputed domain name in connection with a webpage that impersonated the Complainant and created actual consumer confusion; and
- (iv) the present inactive use of the disputed domain name.

For the reasons stated above, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The third element of the Policy has therefore been established.

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 <starlink-token.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: May 11, 2022