

ADMINISTRATIVE PANEL DECISION

Box, Inc. v. Host Master, 1337 Services LLC

Case No. D2023-0234

1. The Parties

The Complainant is Box, Inc., United States of America (“United States”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Names and Registrar

The disputed domain names <boxsupport.info>, and <boxsupport.org> are registered with Tucows Inc. Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2023. On January 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 19, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 23, 2023, 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 amendment to the Complaint on January 24, 2023.

The Center verified that the Complaint together with the amendment to the 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 January 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 21, 2023.

The Center appointed Daniel Peña as the sole panelist in this matter on February 28, 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

The Complainant is a public company, founded and incorporated in 2005, that provides content cloud services to empower organizations to manage the entire content lifecycle.

The Complainant offers web, mobile and desktop applications for cloud content management on a platform for developing custom applications, as well as industry-specific capabilities.

The Complainant owns at least 348 registrations in at least 23 countries or jurisdictions worldwide for trademarks that consist of or contain the mark BOX among others:

- U.S. Reg. No. 3,429,191 for BOX (registered May 20, 2008) for use in connection with, *inter alia*, “computer services”;
- U.S. Reg. No. 3,612,423 for BOX (registered April 28, 2009) for use in connection with, *inter alia*, “on-line journals”;
- U.S. Reg. No. 3,722,965 for BOX (registered December 8, 2009) for use in connection with “advertising the goods and services of others via the Internet”;
- EU Reg. No. 6,792,337 for BOX (registered May 31, 2012) for use in connection with, *inter alia*, “computer services”;
- U.S. Reg. No. 4,102,899 for BOX LOGO (registered February 21, 2012); and
- European Union Reg. No. 9,787,649 (registered May 24, 2015).

The Complainant is the registrant of the domain names <box.net> and <box.com>.

The disputed domain names were registered on September 22, 2023 and are used in connection with websites that appear to be websites of the Complainant and include a login page to collect usernames and passwords from Complainant’s customers.

5. Parties’ Contentions

A. Complainant

Each of the disputed domain names is confusingly similar to the BOX trademark. The relevant comparison to be made is with the second-level portion of the disputed domain names only (*i.e.*, “boxsupport”), as it is well-established that generic Top-Level Domain (“gTLD”) “.info” and “.org” may be disregarded for this purpose.

Each of the disputed domain names contains the BOX trademark in its entirety, with the additional word “support”. The disputed domain names are confusingly similar to the trademark BOX.

The Respondent has used both of the disputed domain names in connection with fraudulent websites that impersonates the Complainant by displaying the Complainant’s BOX logo.

The Respondent has targeted the Complainant by using the BOX logo, without permission, which is certainly intended to confuse Internet users into believing that the disputed domain names and related websites are associated with the Complainant.

The Respondent has no rights or legitimate interests in the disputed domain names.

The Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the BOX trademark in any manner.

The Respondent has never used, or made preparations to use, the disputed domain names or any name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services.

The Respondent has never been commonly known by the disputed domain names

The Respondent has never acquired any trademark or service mark rights in the disputed domain names.

The Respondent is not making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert the Complainant's customers or to tarnish the trademark or service mark at issue.

The disputed domain names should be considered as having been registered and used in bad faith by the Respondent.

The Respondent is using the disputed domain names in connection with websites that falsely appear to be websites for the Complainant and include a login page to collect usernames and passwords from the Complainant's customers as part of an apparent phishing scam.

The Respondent is attempting to attract, for commercial gain, Internet users to the Respondent's websites by creating a likelihood of confusion with the Complainant's BOX trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

Considering these requirements, the Panel rules as follows:

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the BOX trademarks on the basis of its multiple trademark registrations in several countries. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1).

It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name is normally sufficient to establish that the domain name is confusingly similar to a trademark (see section 1.7 of [WIPO Overview 3.0](#)). The Respondent's incorporation of the Complainant's mark in the disputed domain names is sufficient to establish that the disputed domain names are confusingly similar to the Complainant's trademarks. The addition of the term "support" to the Complainant's trademark BOX in the disputed domain names does not prevent a finding of confusing similarity with the Complainant's marks. Furthermore, the addition of the gTLD ".info" and ".org" is viewed as a standard registration requirement and as such is disregarded under the first element.

The Panel is satisfied that the disputed domain names are confusingly similar to the Complainant's mark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Complainant bears the burden of proof in establishing this requirement. In view of the difficulties inherent in proving a negative and because the relevant information is mainly in the possession of the Respondent, it is enough for the Complainant to establish a *prima facie* case which, if not rebutted by from the Respondent, will lead to this ground being set forth. Refraining from submitting any Response, the Respondent has brought to the Panel's attention no circumstances from which the Panel could infer that the Respondent has rights to or legitimate interests in the disputed domain names.

The Panel will now examine the Complainant's arguments regarding the absence of rights or legitimate interests of the Respondent in connection with the disputed domain names. The Complainant claims that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the Complainant's trademarks in a domain name or in any other manner. The Complainant also contends that the Respondent is not known under the disputed domain names.

Furthermore, the disputed domain names directs to websites whereby promotes products without the Complainant's approval or authorisation. The Panel also finds that the nature of the disputed domain names carries a risk of implied affiliation with the Complainant's trademarks (see [WIPO Overview 3.0](#), section 2.5.1).

The Respondent used the disputed domain names in an unlawful attempt to fraudulently impersonate the Complainant.

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain names, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

The Panel finds the Respondent has no rights or legitimate interests in respect of the disputed domain names and that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

- (ii) circumstances indicating that the respondent registered the 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) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online 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 its website or location.

With regard to the bad faith at the time of registration, the Panel notes that it is not likely that the Respondent was not aware of the Complainant and its trademark. On the contrary, the Panel finds that it is likely that the Respondent was aware of the Complainant and its rights and reputation in the BOX trademark at the time the disputed domain names were registered.

The Panel finds bad faith based on the widely evidenced recognition of the Complainant's marks and the use made of the disputed domain names. The Respondent's websites offer similar products as to which offered by the Complainant, and the Respondent's websites have a similar look and feel as the Complainant's website, even reproducing the Complainant's logo.

The Respondent has ignored the Complainant's attempts to resolve this dispute outside of this administrative proceeding. Previous UDRP panels have held that failure to respond to a cease-and-desist letter may properly be considered an additional factor in finding bad faith. See *Encyclopedia Britannica v. John Zuccarini and The Cupcake Patrol a/k/a Country Walk a/k/a Cupcake Party*, WIPO Case No. [D2000-0330](#); and *RRI Financial, Inc., v. Chen*, WIPO Case No. [D2001-1242](#).

It should also be bear in mind that the fraudulent manner in which the disputed domain names were used indicates that the Respondent registered the disputed domain names with the intention to impersonate the Complainant, which makes it impossible that the Respondent was not aware of the Complainant's rights at the time of registration of the disputed domain names.

Consequently, the Panel finds that the disputed domain names were registered and used by the Respondent in bad faith within paragraph 4(a)(iii) of the Policy.

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 names, <boxsupport.info>, and <boxsupport.org>, be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: March 14, 2023