

ADMINISTRATIVE PANEL DECISION

Infineon Technologies AG v. Jean Pierre Raoul Gautier, LAFARGE MARGAUX CAMILLE, mohamed amine, Saint Just Emilien, Fabrice Ouahes
Case No. D2023-0417

1. The Parties

The Complainant is Infineon Technologies AG, Germany, represented by KLAKA Rechtsanwälte, Germany.

The Respondents are Jean Pierre Raoul Gautier, France, LAFARGE MARGAUX CAMILLE, France, mohamed amine, France, Saint Just Emilien, France, and Fabrice Ouahes, France.

2. The Domain Names and Registrars

The disputed domain name <at-infineon.com> is registered with Hostinger, UAB (the “Registrar”).

The disputed domain name <at-infineon.com> is registered with Amazon Registrar, Inc. (the “Registrar”).

The disputed domain names <at-infineon.net> and <infineon-at.net> are registered with NameCheap, Inc. (the “Registrar”).

The disputed domain name <infineon-at.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 30, 2023. On January 30, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On January 30, 2023 and January 31, 2023, the Registrars transmitted by email to the Center their 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 February 1, 2023 providing the registrants and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint or to file a separate complaint for each of the disputed domain names. The Complainant filed an amendment to the Complaint on February 3, 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 Respondents of the Complaint, and the proceedings commenced on February 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 28, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on March 1, 2023.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on March 9, 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 Complaint is a large Germany-based Company and one of the world’s leading companies in the semiconductor industry.

The Complainant’s INFINEON trademark is registered in many countries worldwide, for example, International trademark registration no. 718087 registered on July 12, 1999, covering, in particular, Austria and China, and United States trademark registration no. 2516259 registered on December 11, 2001, both for goods and services in 09, 35 and 42 classes. The Complainant operates under the website “www.infineon.com”.

The disputed domain names are <infineon-at.com> registered on June 28, 2022, <infineon-at.net> registered on September 23, 2022, <at-infineon.net> registered on September 1, 2022, <at-infineon.com> registered on June 30, 2022, and <at-infineon.com>, registered on January 10, 2023.

At the moment of filing the Complaint the disputed domain names <infineon-at.com>, <infineon-at.net> and <at-infineon.net> redirect to the Complainant’s website whereas the disputed domain names <at-infineon.com> and <at-infineon.com> are inactive or contain advertisement for the respective registrar.

At the moment of issuance of this decision the disputed domain names <infineon-at.net> and <at-infineon.net> redirect to the Complainant’s website, whereas the disputed domain names <infineon-at.com>, <at-infineon.com> and <at-infineon.com> are inactive.

5. Parties’ Contentions

A. Complainant

The Complainant contends as follows:

- (1) the disputed domain names are confusingly similar to its INFINEON trademark;
- (2) the Respondents have no rights or legitimate interests in the disputed domain names. There are no business relationships between the Complainant and the Respondents, and the Complainant has not authorized, permitted or licensed the Respondents to use the INFINEON trademark. Also, there is no evidence that the Respondents are known as the disputed domain names.
- (3) the Respondents have registered and are using the disputed domain names in bad faith.

The Complainant requests the transfer of the disputed domain names.

B. Respondents

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

6. Discussion and Findings

6.1 Procedural issues

A. Consolidation of the Complaint against Multiple Respondents

The consensus view when determining if consolidation is appropriate in a UDRP proceeding is whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

The Panel concludes that the disputed domain names are subject to common control for the following reasons:

- a) all disputed domain names are being used as an e-mail domain for fraudulent e-mails (passing-off, impersonation);
- b) all of the disputed domain names target the same trademark and follow the same composition pattern;
- c) each alleged registrant of the disputed domain names is located in France whereas none of the disputed domain names resolve to a website showing any relation to France. To the contrary, at the moment of issuance of this decision, two of the disputed domain names redirect to the Complainant's website, whereas the other three disputed domain names resolve to inactive sites;
- d) each disputed domain name has been registered by the same person or entity as apparent from the following facts: the contact details of the sender of all e-mails incorporating the disputed domain names as the sender's e-mail domain are identical. The mobile phone number is identical for each of the disputed domain name, too;
- e) a pattern of similar behaviour, such as full incorporation of the Complainant's (misspelled) Company identifier and trademark combined with the geographical identifier "AT" for Austria. The pattern of abusing the disputed domain names for e-mail orders of valuable goods are the same for each of the disputed domain names, so the specific pattern of use of the disputed domain names is the same, too, for each of them.
- f) the Respondents have not replied to the Complaint.

The Center has discharged its duties to notify the persons listed as registrants of the disputed domain names. The Respondents have not submitted a formal Response or objected to the consolidation request of the Complainant or to its arguments in support of the request.

The Panel considers consolidation fair and equitable to all Parties as all the Respondents (hereinafter further referred as to "Respondent") have been given a fair chance to reply to the Complaint and to the Complainant's request for consolidation, and that procedural efficiency justifies consolidation ([WIPO Overview 3.0](#) at section 4.11.2). Therefore, the Panel accepts the Complainant's request for consolidation.

6.2 Substantive issues

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

- (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. The onus of proving these elements is on the Complainant. Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

The Respondent failed to submit a response in accordance with paragraph 5(a) of the Rules. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, the Panel's decision shall be based upon the Complaint.

The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions.

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 4.3 of the [WIPO Overview 3.0](#).

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the complainant has rights.

The Panel confirms that for the purposes of paragraph 4(a)(i) of the Policy the Complainant has satisfied the threshold requirement of having relevant trademark rights for INFINEON in jurisdictions throughout the world.

With the Complainant's rights in INFINEON trademarks established, the remaining question under the first element of the Policy is whether the disputed domain names are identical or confusingly similar to the Complainant's mark.

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 3.0](#), section 1.7. This test typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The disputed domain names comprise the Complainant's INFINEON trademark in its entirety preceded or followed by a hyphen and additional letters "at". Prior UDRP panels have recognized that confusing similarity is established for purposes of the Policy where the disputed domain name incorporates the complainant's trademark in its entirety. Furthermore, in cases where the relevant trademark is recognizable within the disputed domain name, the addition of hyphen, letters, numbers, or terms does not prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), sections 1.7-1.8.

Furthermore, the Panel considers that the misspelling of the Complainant's trademark within the disputed domain name <at-infiiineon.com> cannot prevent a finding a confusing similarity, as it concerns the duplication of a small letter ("i") in the middle of the trademark, which is difficult to recognize. In addition, employing a misspelling in this way signals an intention on the part of the Respondent to confuse users seeking or expecting the Complainant ([WIPO Overview 3.0](#) at section 1.9).

The generic Top-Level Domains (“gTLDs”) “.com” and “.net” may be disregarded for purposes of comparison under the first element, as they are viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1.

Therefore, the Panel finds that the disputed domain names are confusingly similar to the Complainant’s trademark and that the requirement of paragraph 4(a)(i) of the Policy is met in this case.

For all of the above-mentioned reasons, the Panel concludes that the disputed domain names are confusingly similar to the Complainant’s trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant has established a *prima facie* case that it holds rights over the trademark INFINEON and claims that the Respondent has no legitimate reason to acquire and use the disputed domain names.

Moreover, as well established by the case file, the disputed domain names were used for illegal activities (see detailed description in the third element). The use of disputed domain names for illegal activities such as passing-off, impersonation or other types of fraud do not confer rights or legitimate interests on the Respondent ([WIPO Overview 3.0](#), section 2.13; *Stichting BDO v. Contact Privacy Inc. Customer 12412517546 / Williams Nicole, BDO USA*, WIPO Case No. [D2022-1033](#)).

There is also no evidence that the Respondent is using the disputed domain names in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain names. Also, there is no evidence that the Respondent is commonly known by the disputed domain names. The Respondent is neither affiliated with the Complainant in any way nor have it been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating said trademark. Furthermore, the Respondent cannot claim prior rights or legitimate interest in the disputed domain names as the INFINEON trademark precedes the registration of the disputed domain names for years.

The Respondent has not replied to the Complainant’s contentions, claiming any rights or legitimate interests in the disputed domain names.

With the evidence on file, it is undoubtedly established that the Respondent has no rights or legitimate interests in respect to the disputed domain names under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

To fulfill the third requirement of the Policy, the Complainant must prove that the disputed domain names were registered and are being used in bad faith.

According to the un rebutted assertions of the Complainant, its INFINEON trademark is widely used in commerce well before the registration of the disputed domain names and are well-known. The Respondent provided no explanations for why it registered the disputed domain names. The typosquatting nature of the disputed domain name <at-infineon.com> further supports this inference.

Furthermore, the disputed domain names have been clearly used for fraudulent practices. The Respondent has sent fraudulent e-mails under the name of the alleged employee of the Complainant under the address of the Complainant's Austrian production site. This clearly demonstrates that the Respondent was aware of the Complainant's trademarks and businesses.

Consequently, it is established by the Panel that the Respondent registered the disputed domain names in bad faith.

As regards to the use, the disputed domain names were being used to send fraudulent emails.

The Panel finds that the phishing activities carried out by the Respondent are clear evidence of registration and use of the disputed domain names in bad faith. According to the case file, the Respondent is engaged in phishing schemes using the disputed domain names via e-mail addresses such as "[redacted]@infineon-at.com", "[redacted]@infineon-at.net", "[redacted]@at-infineon.net", "[redacted]@at-infineon.com", "[redacted]@at-infineon.com", "[redacted]@at-infineon.com". This shows a pattern on the part of the Respondent that could obviously continue the fraudulent activities unless they are stopped. Such use of the disputed domain names demonstrates the Respondent's intention to abusively benefit from the Complainant's reputation and to obtain commercial gains. This cannot be considered use in good faith.

Therefore, it becomes clear for the Panel that the Respondent specifically targeted the Complainant when registering the disputed domain names almost identical to the Complainant's mark adding the term "at", an official abbreviation of the country Austria. Moreover, as the case files shows the consumers perceived these emails as those coming from the Complainant or its Austrian subsidiary.

Previous UDRP panels have held that the use of a domain name for purposes such as sending email, phishing, identity theft, or to send deceptive emails, *e.g.*, to obtain sensitive or confidential personal information to solicit payment of fraudulent invoices by the complainant's actual or prospective customers is evidence of registration and use of the domain name in bad faith ([WIPO Overview 3.0](#), section 3.4).

For the reasons set out above, the Panel concludes that the disputed domain names were registered and are being used in bad faith, within the meaning of 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 <at-infineon.com>, <at-infineon.com>, <at-infineon.net>, <infineon-at.com>, and <infineon-at.net> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: March 23, 2023