



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201634
Complainant:	Beijing Roborock Technology Co., Ltd
Respondent:	Raphael Das Chagas Campos
Disputed Domain Name(s):	<roborockofficial.com>

1. The Parties and Contested Domain Name

The Complainant is Beijing Roborock Technology Co., Ltd, of Floor 6, Suite 6016, 6017, 6018, Building C, Kangjianbaosheng Square No. 8, Heiquan Road Haidian District, Beijing, China.

The Respondent is Raphael Das Chagas Campos, of Rua Noronha Torreza, Niteroi, Rio de Janeiro, Brazil.

The domain name at issue is <roborockofficial.com>, registered by Respondent with GoDaddy.com, LLC, of 14455 North Hayden Rd. Suite 219 Scottsdale, AZ 85260, United States of America.

2. Procedural History

- i. On 1 July 2022, the Complainant's authorized representative, Chofn Intellectual Property, submitted the Complaint together with the accompanying Annexures to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre via email pursuant to the Uniform Policy for Domain Name Dispute Resolution, approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on 24 October 1999 (the Policy), the Rules for Uniform Domain Name Dispute Resolution Policy, approved by ICANN Board of Directors on 28 September 2013 (the Rules) and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy effective from 31 July 2015 (the Supplemental Rules).
- ii. On 4 July 2022, the Centre notified the Registrar, GoDaddy.com, LLC, of the disputed domain via email and requested for verification and information on the domain name. The Centre also confirmed receipt of the Complaint and requested that the case filing fee be settled.
- iii. On 5 July 2022, the Registrar responded with the following verification and information:-

- a) the disputed domain name <roborockofficial.com> is registered with the Registrar;
 - b) the Respondent is the registrant or holder of the disputed domain name;
 - c) ICANN's Uniform Domain Name Dispute Resolution Policy is applicable to the Complaint;
 - d) the language of the registration agreement for the disputed domain name is English;
 - e) WHOIS information on the disputed domain name; and
 - f) the disputed domain name will remain locked during the proceedings.
- iv. On 7 July 2022, the Centre notified the Complainant's authorized representative of a deficiency in the Complaint and requested that the deficiency be rectified within 5 calendar days, and the Complainant's authorized representative revised and sent the revised Complaint to the Centre within the same day. The Centre then confirmed that the Complaint is in compliance with the Uniform Domain Name Dispute Resolution Policy and its Rules, informed that the Complaint will be forwarded to the Respondent and that proceedings will be formally commenced upon receipt of a copy of the transaction slip for payment verification.
 - v. On 18 July 2022, the Centre followed up with the Complainant's authorized representative on the payment of the case filing fee. A transaction slip was sent by the Complainant's authorized representative to the Centre on the same day and the Centre confirmed receipt of the transaction slip on 19 July 2022.
 - vi. On 20 July 2022, the Centre transmitted to the Respondent the Written Notice of Complaint via email and notified the Respondent that it is required to participate in mandatory administrative proceedings and that it he may submit a Response on or before 9 August 2022.
 - vii. On 20 July 2022, the Centre requested for more details on the payment of the case filing fee from the Complainant's authorized representative who responded with a screen shot of a payment slip. The Centre acknowledged receipt of the screen shot of a payment slip on the same day and confirmed receipt of the case filing fees on 21 July 2022.
 - viii. On 10 August 2022, the Centre sent confirmation that it did not receive a Response from the Respondent and, in accordance with the Complainant's request for the case to be decided by a single-member Panel, contacted Michael Soo Chow Ming.
 - ix. On 11 August 2022, Michael Soo Chow Ming confirmed his availability and ability to act independently and impartially vis-à-vis the parties he was appointed as panelist on 12 August 2022.

3. Factual background

A. Complainant

The Complainant researches, develops and produces home cleaning devices, particularly robotic, cordless, and wet/ dry vacuum cleaners. Its products are available in more than 40 countries, including the U.S., Germany, France, and Spain. The Complainant is also the proprietor of the following trademark registrations:-

Registration No	Mark	Jurisdiction	Class	Reg Date
1 392 428	roborock	WIPO – designating Australia, Colombia, India, Israel, Mexico, New Zealand, Norway, Philippines, Singapore, Thailand, Turkey, Iran, Russia, Serbia, Switzerland, Ukraine and Vietnam	7	27.11.2017
1 488 782	roborock	WIPO – designating Australia, Colombia, India, Indonesia, Israel, Japan, Mexico, New Zealand, Norway, Philippines, Republic of Korea, Singapore, Thailand, Turkey, Russia, Serbia, Switzerland, Ukraine and Vietnam	9	08.08.2019
1 580 853	roborock	WIPO – designating Australia, Brazil, Canada, Colombia, European Union, India, Indonesia, Israel, Japan, Malaysia, Mexico, New Zealand, Norway, Philippines, Republic of Korea, Singapore, Thailand, Turkey, United Kingdom, Iran, Russia, Serbia, Switzerland, Ukraine and Vietnam	37	21.12.2020
1 583 831	roborock	WIPO – designating Australia, Canada, India, Israel, Japan, Malaysia, Republic of Korea, Russia and Vietnam	35	21.12.2020
017298035	roborock	European Union	7, 9	24.01.2018

			and 35	
22485882	roborock	China	7	07.02.2018
22486046	roborock	China	9	07.02.2018
22486138	roborock	China	35	07.02.2018
TMA1,056,368	roborock	Canada	7	26.09.2019
UK00003664383	Roborock X7 WashVac	United Kingdom	7	05.07.2021
UK00003664448	Roborock Self-Cleanse	United Kingdom	7	05.07.2021
UK00003664451	Roborock HyperForce Cyclone	United Kingdom	7	05.07.2021
UK00917298035	roborock	United Kingdom	7, 9 and 35	04.10.2017

B. Respondent

The Respondent did not file a Response within the prescribed time period.

4. Parties' Contentions

A. Complainant

The Complainant's contentions can be summarized as follows:

- i. The disputed domain name is identical or confusingly similar to trade / service marks in which the Complainant has rights.
 - a) The Complainant believes that comparison should focus on the second-level part of the domain name and the Complainant's trademarks. Further, the English word "official" is a commonly used word that lacks significance and should not be compared with the Complainant's trademarks for the purpose of determining confusion.
 - b) The main identifying element of the disputed domain name, roborock, is identical with the Complainant's "roborock" trademark and the Complainant submits that the disputed domain name is confusingly similar to the Complainant's "roborock" trademark.
- ii. The respondent has no rights or legitimate interests in respect of the disputed domain name.
 - a) Searches confirmed that there are no trademarks in the name of the Respondent and the Complainant confirmed that the Respondent is not the Complainant's distributor or partner. Further, the Complainant has never directly or indirectly authorized the Respondent to use the "roborock" trademark and domain name in any form.

- b) The name of the Respondent is “RAPHAEL DAS CHAGAS CAMPOS” and it is therefore impossible for the Respondent to enjoy the relevant name rights for “roborock”.
- iii. The disputed domain name has been registered and is being used in bad faith.
- a) The Complainant is one of the world's largest manufacturers of cleaning appliances and has acquired sufficient visibility by reference to its “roborock” trademark before the disputed domain name was registered. The Complainant’s trademark is also highly distinctive and well-known.
 - b) The content of the website pointed to by the disputed domain name is basically the same as that of the Complainant's official website which clearly shows that the Respondent knew or ought to have known about the Complainant's business name and trademarks when registering the disputed domain name.
 - c) The Respondent attracts Internet users to its website through the possibility of confusion with the Complainant's trademarks, and in such a way as to "hitchhike", "rub the traffic" and "rub the popularity" off the Complainant. The Complainant believes that the Respondent has infringed its rights in order to obtain commercial benefits
 - d) The Respondent has no legitimate rights or interests in the disputed domain name. The Respondent has acted in bad faith in the registration and use of the disputed domain name and the Respondent has seriously infringed upon the lawful rights and interests of the Complainant.

Based on the above, the Complainant requests the disputed domain name <roborockofficial.com> be transferred to the Complainant.

B. Respondent

The Respondent’s did not file a Response within the prescribed time period.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent’s domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent’s domain name has been registered and is being used in bad faith.

Given that the Respondent failed to file a Response within the prescribed time, the Panel will consider and render a decision based on the information and materials submitted by the Complainant only.

A) Identical / Confusingly Similar

- i. The Complainant has adduced evidence that it is the proprietor of various “roborock” trademarks around the world which were registered since as early as 04.01.2017. The disputed domain name, <roborockofficial.com>, incorporates the entirety of the Complainant’s “roborock” trademark.
- ii. In this regard, paragraph 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“**WIPO Jurisprudential Overview 3.0**”) states that “... in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” [emphasis added]
- iii. Further, it was found that the addition of generic words would not stop confusion from being caused by the use of a trademark in **Fondation Le Corbusier v Monsieur Bernard Weber, Madame Heidi Weber**; WIPO Case No. D2003-0251:-

“Each disputed domain name includes the trademark LE CORBUSIER with the addition of a generic word: art, museum, fondation, foundation, centre or center. The combinations obtained are generic and do not stop the confusion caused by the use of the trademark LE CORBUSIER: The Body Shop International PLC. v. CPIC Net and Syed Hussain, WIPO Case No. D2000-1214; Space Imaging, eResolution Case No. AF0298. The words foundation and museum were found to be descriptive in Indivision Picasso v. Manuel Mu iz Fernandez [Hereisall], WIPO Case No. D2002-0496 as was the word center in Nintendo of America Inc. v. Berric Lipson, WIPO Case No. D2000-1121.”

[emphasis added]
- iv. The English word “official” is a commonly used or generic word which lacks significance and does not dispel any likelihood of confusion between the disputed domain name and the Complainant’s “roborock” trademark. The word “roborock”, which is the dominant and distinguishing component of the disputed domain name, is clearly visible and immediately recognizable.
- v. Other than that, the only other element in the disputed domain name is a generic Top-Level Domain (“gTLD”) suffix of “.com”. It is well established in domain name cases that the inclusion of gTLD and ccTLD is immaterial in determining whether the domain name in dispute is identical or confusingly similar to a Complainant’s trademark (**Volkswagen Group Singapore Pte Ltd v Webmotion Design Case No.: rca/dndr/2003/01 (int)**).
- vi. Therefore, the Panel finds that the disputed domain name is identical / confusingly similar to the Complainant’s trademark and that the Complainant has satisfied the first element in paragraph 4(a) of the Policy.

B) Rights and Legitimate Interests

- i. The Complainant has confirmed that it has never directly or indirectly authorized the Respondent to use the “roborock” trademark and domain name in any form. There is also no evidence of there being any trademark registrations in the name of the Respondent in the UK where an address was referred in the website pointed to by the disputed domain name.
- ii. Further, the name of the Respondent is “RAPHAEL DAS CHAGAS CAMPOS”. It is therefore impossible for the Respondent to enjoy the relevant name rights for “roborock”.
- iii. Regardless of whether the products featured at the disputed domain name are genuine or counterfeit, the website does not disclose the Respondent’s lack of relationship with the Complainant. On the contrary, the website gives the impression that it is somehow affiliated with, or endorsed by, the Complainant.
- iv. In **Oki Data Americas, Inc. v ASD, Inc.**; WIPO Case No. D2001-0903, it was found as follows:-

*“The site must accurately disclose the registrant's relationship with the trademark owner; **it may not, for example, falsely suggest that it is the trademark owner, or that the website is the official site, if, in fact, it is only one of many sales agents.** E.g., *Houghton Mifflin Co. v. Weatherman, Inc.*, WIPO Case No. D2001-0211 (WIPO April 25, 2001) (no bona fide offering where website's use of Complainant's logo, and lack of any disclaimer, suggested that website was the official Curious George website); *R.T. Quaiife Engineering v. Luton*, WIPO Case No. D2000-1201 (WIPO Nov. 14, 2000) (**no bona fide offering because domain name <quaiifeusa.com> improperly suggested that the reflected site was the official U.S. website for Quaiife, an English company**; moreover, respondent's deceptive communications with inquiring consumers supported a finding of no legitimate interest); *Easy Heat, Inc. v. Shelter Prods.*, WIPO Case No. D2001-0344 (WIPO June 14, 2001) (no bona fide use when respondent suggested that it was the manufacturer of complainant's products).” [emphasis added]*

- v. In this regard, the Panel finds that the Complainant has demonstrated a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name.
- vi. Further, there is no evidence that the Respondent is commonly known by the disputed domain name or that the Respondent has used the disputed domain name for a legitimate noncommercial or fair use, without intent for commercial gain.
- vii. In any event, the Respondent did not submit a response with the Centre and consequently failed to adduce evidence to prove it has any right or legitimate interest in the disputed domain name. In this regard, paragraph 2.1 of the WIPO Jurisprudential Overview 3.0 states as follows:-

“As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this

*element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. **If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.***

[emphasis added]

- viii. In other words, the absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enter no response. (**De Agostini S.p.A. v Marco Cialone**; WIPO Case No. DTV2002-0005).
- ix. Therefore, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C) Bad Faith

- i. The crux of the Complainant's complaint on bad faith appears to fall within Paragraph 4(b)(iv) of the Policy. Paragraph 4(b)(iv) of the Policy provides for the following as evidence of registration and use of a domain name in bad faith.

“(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

- ii. It is shown that a simple search on online search engines such as Google would lead to a large number of hits / results on or leading to the Complainant or which refers to the Complainant's “roborock” trademark. This shows that the trademark “roborock” associated with the Complainant and its products.
- iii. In view of the Complainant's standing and reputation and the fact that the contents of the website pointed to by the disputed domain name is basically the same as that of the Complainant's official website, the Panel finds that the Respondent has 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 of the website and the products sold, in the meaning of Paragraph 4(b) (iv) of the Policy.
- iv. In **Swarovski Aktiengesellschaft v WhoisGuard Protected / Peter D. Person**; WIPO Case No. D2014-1447, it was found that:-

“Given the circumstances of the case, in particular the extent of use of the Complainant's trademark, the reputation and the distinctive nature of the mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark. Further, the Panel finds that the Respondent could not have been unaware of the fact that the disputed domain name it chose could attract Internet users in a manner that is likely to create confusion for such users.

*The Panel therefore finds that the disputed domain name was **registered in bad faith.***

[emphasis added]

- v. In **Barclays Bank PLC v PrivacyProtect.org / Sylvia Paras**; WIPO Case No. D2011-2011, it was found that:-

*“The Respondent has registered and used a domain name which incorporates the Complainant’s well-known trademark, with the mere addition of two generic words. **The disputed domain name is used to resolve to a website where financial services are offered, without the Respondent having rights or legitimate interests in the disputed domain name. These services, if actually provided, would compete with the services offered by the Complainant.**”*

The Panel finds that use of the disputed domain name will divert potential customers from the Complainant's business to the website under the disputed domain name by attracting Internet users who mistakenly believe that the disputed domain name is affiliated to the Complainant, and which may further mistakenly believe that the services offered on this website are offered by the Complainant, or by an entity affiliated to the Complainant.”

- vi. Thus, the Panel finds that the Respondent has registered and used the Disputed Domain Name in bad faith.

6. Decision

Based on the foregoing reasons, the Complaint is allowed and the disputed domain name, <roborockofficial.com>, is to be transferred to the Complainant.



Michael Soo Chow Ming
Panelist

Dated: 23rd August 2022