



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (HONG KONG OFFICE)

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Decision Submission

English Print

Decision ID	DE-0700102
Case ID	HK-0700116
Disputed Domain Name	www.thetaworld.com www.theta-world.com
Case Administrator	Dennis CAI
Submitted By	M Scott Donahey
Participated Panelist	M Scott Donahey
Date of Decision	26-04-2007

The Parties Information

Claimant	Thetaworld Corporation
Respondent	Daniel Albrecht

Procedural History

The complainant in this case are Thetaworld Corporation, a corporation organized under the laws of the Republic of Panama, whose address is Suite 458, Edif. Marisol, Local # 1, Via Israel, Paitilla, Panama City, Republic of Panama ("Complainant").

The respondent is Daniel Albrecht, Faehstr. 14/15, Stralsund, D-18439, Germany ("Respondent").

The domain names in dispute are <thetaworld.com> and <theta-world.com>. The Registrar of the domain name is Cronon AG Berlin, Niederlassung Regensburg, the address of which is Obermunsterstr. 9, 93047 Regensburg, Germany.

On 27 February 2007, pursuant to the Uniform Domain Name Dispute Resolution Policy ("the Policy"), the Rules for the Uniform Domain Name Dispute Resolution Policy ("the Rules") and Hong Kong International Arbitration Centre Supplemental Rules ("the HKIAC Supplemental Rules"), the Complainant submitted a complaint in the English language to the Hong Kong International Arbitration Centre (the "HKIAC"), an office of the Asian Domain Name Dispute Resolution Centre and elected this case to be dealt with by a one-person panel. On 28 February 2007, Hong Kong International Arbitration Centre sent to the complainant by email an acknowledgement of the receipt of the complaint and reviewed the format of the complaint for compliance with the Policy, the Rules and the HKIAC Supplemental Rules. All correspondence to and from the HKIAC described herein was in the English language.

On 13 March 2007 the HKIAC notified the Respondent of the commencement of the action.

On 4 April 2007, the HKIAC notified the Complainant that the Respondent had failed to submit a Response.

Since the Respondent did not file a response in accordance with the time specified in the Rules the HKIAC Supplemental Rules, and the Notification, the HKIAC informed Complainant and Respondent by email about the default, stating that, as Respondent did not file a response within the required time, the HKIAC would appoint the panelist to proceed to render the decision, in the absence of a response by Respondent.

The HKIAC notified the parties that the Panel in this case had been selected, with M. Scott Donahey acting as the sole panelist. The Panel determines that the appointment was made in accordance with Rules 6 and Articles 8 and 9 of the Supplemental Rules.

On 25 April 2007, the Panel received the file from HKIAC.

Factual Background

For Claimant

Complainant has a registered trademark for the mark THETAWORLD with the Ministry of Commerce and Industries, Directorate General of the Industrial Property Registry of the Republic of Panama, which registration was applied for on 14 March and issued on 27 October 2006, effective on the filing date. Complainant has been using the mark “for long time.” Complainant is a registered company since 2002 and transacts business in the nature of the formation of Panamanian corporations for non-Panamanian individuals, as well as the provision of unspecified Internet services, the sale and trade of various collectibles, and legal and translation services. On 26 November 2000, Respondent registered the domain names at issue. Whois search conducted by Panel, on 25 April 2007. The domain names at issue resolve to a web site at which the Greek symbol for theta followed by a hyphen followed by the word “WORLD” is displayed with a notice that the site is “always under construction.”

Complainant has not authorized Respondent to use its mark.

For Respondent

Respondent has failed to file a response in this matter.

Parties' Contentions

Claimant

Complainant asserts that the domain names at issue are identical or confusingly similar to Complainant's mark THETAWORLD

Complainant further alleges that Respondent has no rights or legitimate interests in respect of the domain names, and that Respondent's domain names have been registered in bad faith and are being used in bad faith since they resolve to an inactive web site that bears the notification “always under construction.”

Respondent

The respondent did not file a response within the stipulated time.

Findings

Paragraph 15(a) of the Uniform Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.”

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- 1) that the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- 2) that the Respondent has no rights or legitimate interests in respect of the domain name; and
- 3) that the domain name has been registered and is being used in bad faith.

Identical / Confusingly Similar

The Panel finds that the domain names <thetaworld.com> and <theta-world.com> are identical to the registered mark THETAWORLD, since a hyphen in the name is not a distinguishing factor. InfoSpace.com, Inc. v. Tenenbaum Ofer, WIPO Case No. D2000-0075.

Rights and Legitimate Interests

Complainant has in a credible way alleged that Respondent has no rights or legitimate interests in respect of the domain name at issue. Respondent has failed to show that Respondent has any rights or legitimate interests in respect of the domain name at issue. This entitles the Panel to infer that Respondent has no rights or legitimate interests in respect of

the domain name at issue. *Alcoholics Anonymous World Services, Inc. v. Lauren Raymond*, WIPO Case No. D2000 0007; *Ronson Plc v. Unimetal Sanayi ve Tic. A.S.*, WIPO Case No. D2000 0011. Accordingly, the Panel finds that Respondent has no rights or legitimate interests in respect of the domain name.

Bad Faith

The evidence shows that Respondent registered the domain names at issue almost five and one half years before the effective date of the Complainant's registered trademark and almost six years before the registration issued. "Theta" is a common Greek letter and symbol much used in business and fraternal organizations. "World" is a common English word. The combination of the two, while not obvious, is also not obviously aimed at a particular business. Complainant, while alleging that it used the trademark that it registered in 2006 "for long time," offers no evidence as to when, if ever, the trademark acquired secondary meaning such that the public came to associate the mark with goods and services offered by Complainant, or when, if ever, Respondent, who is located in Germany, should reasonably have been aware of Complainant's mark. Absent such a showing, Respondent cannot be said to be in bad faith, since his registration of the domain names at issue predated the issuance of the registered mark by more than five years. *Interep National Radio Sales, Inc. v. Internet Domain Names, Inc.*, WIPO Case No. D2000-0174. Accordingly, the Panel finds that Complainant has failed to prove that the domain names at issue were registered in bad faith.

Status

www.thetaworld.com	Complaint Rejected
www.theta-world.com	Complaint Rejected

Decision

For all of the foregoing reasons, the Panel decides that the Complaint in this matter should be dismissed.

M. Scott Donahey
Sole Panelist

DATED: April 25, 2007

[Back](#) [Print](#)