

CANADIAN INTERNET REGISTRATION AUTHORITY

DOMAIN NAME DISPUTE RESOLUTION POLICY

DECISION

Domain Name: ruckusnetworks.ca
Complainant: Arris Enterprises LLC
Registrant: Edward Fung
Registrar: GoDaddy Domains Canada, Inc.
Service Provider: Resolution Canada Inc.
Panel: Peter C. Cooke

THE PARTIES

The **Complainant** is Arris Enterprises LLC (the “Complainant”), with an address at 1100 CommScope Place, S.E., US USA (sic)

The **Registrant** is Edward Fung (the “Registrant”), with an address at 2 Cynthia Jean St, Markham, ON, L6C2P3

THE DOMAIN NAME AND REGISTRAR

The subject of this proceeding is the domain name ruckusnetworks.ca (the “Domain Name”) registered on March 22, 2023. The Registrar of the Domain Name is GoDaddy Domains Canada, Inc..

PROCEDURAL HISTORY

This is an administrative dispute resolution proceeding pursuant to the Canadian Internet Registration Authority (“CIRA”) *Domain Name Dispute Resolution Policy* (version 1.3) (the “Policy”) and the CIRA *Domain Name Dispute Resolution Rules* (version 1.5) (the “Rules”). By

registration of the Domain Name with the Registrar, the Registrant agreed to the resolution of this dispute pursuant to the Policy and the Rules.

According to the information provided by Resolution Canada Inc., the dispute resolution service provider, the history of the proceeding is as follows:

The Complainant filed a complaint (the “Complaint”) with Resolution Canada Inc., requesting that the Domain Name registration be transferred from the Registrant to the Complainant. After having determined that the Complaint was in administrative compliance with the requirements of the Policy and the Rules, Resolution Canada Inc. commenced the dispute resolution process on June 16, 2023, and served notice of the Complaint on the Registrant (as required by paragraph 4.3 of the Rules) by email. No response was received from the Registrant.

The Complainant elected to proceed before a panel consisting of one panelist. The Panel confirms that it can act impartially and independently in this matter per Paragraph 7 of the *Rules*, as there are no circumstances known to them that would prevent them from so acting.

ELIGIBILITY OF COMPLAINANT

Paragraph 1.4 of the Policy requires that the person initiating a Proceeding must, at the time of submitting the Complaint, satisfy the Canadian Presence Requirements for Registrants (version 1.3) (the “CPR”) in respect of the domain name.

The Complainant, Arris Enterprises LLC, states that it satisfies the CPR because of its rights in the Canadian trademark RUCKUS, Reg. No. TMA 1,121,310 (the “RUCKUS Registration”). However, the owner of TMA 1,121,310 is not Arris Enterprises LLC but is ARRIS International IP Ltd. (see Exhibit 1E). Based on the record before the Panel, the Complainant is not currently “...the owner of a trademark which is the subject of a registration under the *Trademarks Act* (Canada)”, as provided in Paragraph 2 (q) of the CPR. The record shows that a company that *appears* to be related to the Complainant owns the Canadian registration, which does not satisfy the CPR.

The Complainant has not asserted or provided any evidence that could give rise to another basis for meeting the CPR. Even if the Complaint were to be successful, the Domain Name cannot be transferred to the Complainant as is requested by the Complainant, as the

Complainant does not appear to have a basis to be permitted to hold and maintain a .ca domain name. Accordingly, it is concluded that the Complainant does not satisfy the CPR. (see the decision in *Trucksuite.ca* CDRP-2243 2020 for a similar outcome, on different grounds)

Decision and Order

Based on the evidence and record before us, we find that:

1. The Complainant does not meet the Canadian Presence Requirement, pursuant to Paragraph 1.4 of the Policy.

For the reasons above, it would not appear necessary or appropriate in the circumstances to make findings on the issues of confusing similarity and rights in a trademark, bad faith and legitimate interest.

The Complaint is denied.

Dated August 11, 2023



Peter C. Cooke